

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.488 OF 2018

1. Usman S/o. Gani Kureshi,
Age: 62 years, Occu: Nil,
R/o. Rojamholla, Kaij
Taluka Kaij, Dist. Beed.
2. Hanfijunissa W/o Usman Kureshi,
Age : 58 years, Occu: Household,
R/o. Rojamholla, Kaij
Taluka Kaij, Dist. Beed.
3. Arif S/o. Usman Kureshi
Age: 28 years, Occu: Labour,
R/o. Rojamholla, Kaij
Taluka Kaij, Dist. Beed.
4. Hares S/o. Usman Kureshi
Age : 30 years, Occu: Labour
R/o. Rojamholla, Kaij
Taluka Kaij, Dist. Beed.
5. Wajed S/o. Usman Kureshi,
Age: 26 years, Occu: Labour,
R/o. Rojamholla, Kaij
Taluka Kaij, Dist. Beed.
6. Jinat @ Sarmin Kureshi,
Age: 27 years, Occu: Household,
R/o. Rojamholla, Kaij
Taluka Kaij, Dist. Beed.

... **APPLICANTS**

VERSUS

1. The State of Maharashtra
through Kaij Police Station,
Kaij, Dist. Beed.
2. Hajrabee W/o. Ajeem Kureshi,
Age: 34 years, Occu: Household,
R/o C/o 271, Kureshi Nagar, Kasae
Mohalla, Juna Bazar Khadki, Pune,
Taluka Pune Dist. Pune.

... **RESPONDENTS**

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Advocate for Applicants : Mr. Suhas R. Shirsat

APP for Respondents: Mr. B.V. Virdhe

Advocate for Respondent No.2 : Mr. N.R. Thorat (appointed)

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**CORAM : MANGESH S. PATIL AND
ABHAY S. WAGHWASE, JJ.**

DATE : 11.10.2022

PER COURT :

Heard.

2. By invoking the powers of this Court under Section 482 of the Code of Criminal Procedure, the applicants who are accused in Crime No.573/2017 registered with Kaij Police Station, District Beed for the offence punishable under Section 498-A, 323, 504 and 506 of the Indian Penal Code, registered at the instance of the respondent No.2 are praying for quashment of the charge-sheet and the regular criminal case registered pursuant thereto.

3. We have heard the learned advocate for the applicants, the learned APP and the learned advocate for the respondent No.2.

4. After hearing the parties when this Court expressed its disinclination to grant any relief to the applicant Nos.1 and 2, their learned advocate, on instructions, seeks leave to withdraw the application to their extent.

5. The sum and substance of the allegations in the FIR lodged on 21.12.2017 are to the effect that the respondent No.2 was married to the son of the applicant Nos.1 and 2 who happens to be the accused No.1 but not before us. On 18.02.2004 since after marriage when she started cohabiting with the applicants and the husband, she was subjected to physical and mental cruelty on the ground that she was unable to beget any

issue. The assault resulted in relations getting deteriorated. The applicant Nos.3 to 4 who are her brothers-in-law also started instigating her husband to get married second time. She was being taunted and teased and was left at her parental home on 01.12.2013. After she learnt about her husband having solemnized second marriage with the applicant No.6 herein on 04.12.2013, her parents came down to Kaij to convince the applicant and her husband, for some time she was allowed to resume cohabitation but again she was sent back to her parental home in March 2014. As is mentioned herein above the FIR has been lodged thereafter on 21.12.2017.

6. The allegations in the FIR mostly pertain to the conduct of the husband and the applicant Nos.1 and 2. We are not concerned with that in as much as the husband is not before us and the applicant Nos.1 and 2 have withdrawn their application.

7. So far as the other applicants are concerned, the brothers-in-law's names do appear in the FIR and even the name of the applicant No.6 who happens to be the second wife of her husband is there. However, the allegations against them are vague and omnibus. The FIR has been lodged belatedly, after about three years of the respondent No.2 having gone back to her parental home. It would be indeed hazardous to permit the prosecution to be proceeded against the applicant Nos.3 to 6 on the basis of such vague and omnibus allegations.

8. It is trite that it is usual tendency of roping as many relatives of the husband as possible for the obvious ulterior motive. The Supreme Court

in the matter of **Kumari Geeta Mehrotra and Anr. Vs. State of U.P. and Anr.; AIR 2013 SC 181**, has time and again mentioned about the precaution to be taken in such matters where the relatives of the husband are prosecuted without specific and precises allegations.

9. In our considered view, in view of the delay in lodging of the FIR coupled with absence of specific and concrete allegations against the applicant Nos.3 to 6 herein, their case is squarely covered by the guidelines laid down in the matter of **State of Haryana and Ors. V/s Bhajan Lal and Ors.; 1992 AIR SC 604**.

10. We allow the Application partly to the extent of applicant Nos.3 to 6. The criminal case to their extent stands quashed and set aside. The Application to the extent of applicant Nos.1 and 2 is dismissed as withdrawn.

11. Learned advocate Mr. N.R. Thorat has been appointed to represent the respondent No.2. We quantify his fees as Rs.3000/-.

(ABHAY S. WAGHWASE, J.)

(MANGESH S. PATIL, J.)