

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1490 OF 2021

- 1) Dinesh Marotrao Hanwate,
Age-34 years, Occu:Service,
- 2) Marotrao Bhikaji Hanwate,
Age-67 years, Occu:Retired from Service,
- 3) Shindhubai Marotrao Hanwate,
Age-55 years, Occu:Household,
- 4) Dipak Marotrao Hanwate,
Age-37 years, Occu:Business,

Applicant Nos.1 to 4: R/o-Mahagaon,
Tq-Mahagaon, Dist-Yewatmal,

- 5) Mangladevi Dinesh Gavande,
Age-33 years, Occu:Advocate,
R/o-Datta Chowk, Yewatmal,
Tq-Yewatmal, Dist-Yewatmal,
- 6) Trimurti Dipak Hanwate,
Age-33 years, Occu:Housewife,
- 7) Savitra Akash Sable,
Age-31 years, Occu:Housewife,

Applicant Nos.6 and 7: R/o-Mahagaon,
Tq-Mahagaon, Dist-Yewatmal,

- 8) Manisha Marotrao Hanwate,
Age-29 years, Occu:Service,
R/o-Datta Chowk, Yewatmal,
Tq-Yewatmal, Dist-Yewatmal,

9) Shital Sanjay Kamble,
Age-23 years, Occu:Student,
R/o-Hudi, Tq-Pusad, Dist-Yewatmal,

10) Uttam Madhav Jamdade,
Age-42 years, Occu:Agri.,
R/o-Gundwal, Post-Rui,
Tq-Mahur, Dist-Nanded

...APPLICANTS

VERSUS

1) The State of Maharashtra,
Through its Principal Secretary,
Home Department,
Mantralaya, Mumbai,

2) The Police Inspector,
Police Station, Kinvat,
Tq-Kinvat, Dist-Nanded,

3) Punam Dinesh Hanwate,
Age-27 years, Occu:Service,
R/o-At Post-Gokunda,
Lecture Colony, Tq-Kinvat,
Dist-Nanded.

...RESPONDENTS

...
Mr.R.D. Biradar Advocate for Applicants.
Mr.A.M. Phule, A.P.P. for Respondent Nos.1 and 2.
Mr.B.N. Gadegaonkar Advocate for Respondent No.3.
...

**CORAM: SMT. VIBHA KANKANWADI AND
RAJESH S. PATIL, JJ.**

DATE OF RESERVING ORDER : 4th AUGUST 2022

DATE OF PRONOUNCING ORDER : 8th SEPTEMBER 2022

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. The applicants, by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure, have prayed for quashment of the First Information Report (for short "FIR") bearing Crime No.177 of 2021 registered with Kinvat Police Station, District-Nanded for the offence punishable under Sections 498-A, 504, 506 read with Section 34 of the Indian Penal Code, and by way of amendment, the applicants have also prayed for the quashment of subsequent charge-sheet dated 21st September 2021.

2. Applicant No.1 and respondent No.3 got married on 17th June 2018. Applicant Nos.2 and 3 are the father and mother of applicant No.1. Applicant No.4 is brother of applicant No.1. Applicant Nos.5 to 9 are the sisters of applicant No.1 and applicant No.10 is the maternal uncle of applicant No.1. A written complaint was given by respondent No.3 on 19th May 2021, in which she had arrayed 13 accused and offence vide Crime No.177 of 2021 came to be registered with Kinvat Police Station, District-Nanded for the offence punishable under

Sections 498-A, 504, 506 read with Section 34 of the Indian Penal Code on 31st May 2021. Though the written complaint appears to be against 13 persons, the FIR came to be lodged against ten persons only. All those accused persons are before this Court.

3. Heard learned Advocate Mr. Biradar appearing for the applicants, Mr. Phule, learned APP appearing for respondent Nos.1 and 2, and Mr. Gadegaonkar, learned Advocate appearing for respondent No.3.

4. Learned Advocate for the applicants has vehemently submitted that the allegations against the applicants are false. At the time of alleged incident, applicant No.1 was not present at the place but he was at Late Sudhakar Rao Naik Junior College at Fulsavangi. It is alleged that on the day of incident i.e. 25th December 2020 respondent No.3 was driven out of the house. Applicant Nos.5, 7 to 10 are residing at some other places and they are the married sisters as well as maternal uncle of applicant No.1, yet, as they are the relatives, they have been falsely implicated. In fact on 16th May 2021 and 3rd June 2021, applicant has given application to Police Station, Kinvat in

respect of giving custody of the furniture, utensils to respondent No.3 from rented house at Kinvat. Respondent No.3 is serving as Anganwadi Sevika at Kinvat and therefore applicant No.1 has taken two rooms on rent. By obtaining permission from the forest department, applicant No.1 had made arrangements to carry the furniture and utensils from Mahagaon to Kinvat, yet false allegations have been made. It would be a futile exercise to ask the applicants to face the trial. The statements of the witnesses are nothing but the replica of the FIR.

5. Per contra, the learned APP appearing for the State as well as learned Advocate appearing for respondent No.3 strongly opposed the application and submitted that if the contents of the FIR are seen, allegations have been made against each and every accused person. It is given in detail as to how each and every accused has harassed respondent No.3. Though certain applicants are not residing in the matrimonial home or respondent No.3 is residing at a different place, yet the applicants used to be in contact with her and they have harassed her, firstly on the count that she has not begotten a son and the applicants were not happy with the birth of the daughter, and secondly the harassment started by demanding amount of

Rs.15,00,000/-. That amount was demanded on the count that since applicant No.1 was serving as a lecturer and he wants to become permanent, for that purpose he wanted to give the said amount in the institution. Applicant No.1 has in fact done unnatural sex against her. For that purpose relevant section has been added against applicant No.1 in the charge-sheet. On 14th April 2020, applicant No.5 supported by applicant Nos. 1 to 3, 4, 6 and 7 had tried to commit murder of respondent No.3. Father of the informant had transferred certain amount in the account of the informant and asked that it should be given as per the demand of the accused. On 2 to 3 occasions the accused persons had tried to kill the informant and ultimately she has been driven out of the house. Considering the facts of the case, this cannot be a case where the inherent powers should be exercised.

6. Learned Advocate for respondent No.3 has further submitted, on the basis of the affidavit in reply given by respondent No.3, that even now applicant No.8 is sending threatening messages in abusive language on the mobile phone to the informant and the informant has given the photo copies of the messages those have been received. It is the fact that applicants No.1 to 4 and applicant Nos.6 and 8 who are the

married sisters in law of the informant, are residing together and respondent No.3 used to be amongst them. Applicant No.5 used to frequently come to the matrimonial home of respondent No.3. So also applicant No.9 used to reside at Pusad which is hardly 40 Kms. from Mahagaon. Applicant No.10 also used to visit the matrimonial home of respondent No.3. All of them subjected her to cruelty and therefore, learned Advocate for respondent No.3 prayed for rejection of the Application.

7. It appears that initially respondent No.3 had given written complaint to Police Station, Kinwat on 19th May 2021 and thereafter the FIR came to be lodged on 31st May 2021. There is no difference between the written complaint and the FIR. Perusal of the FIR would show that specific role is attributed to each and every accused. What they have done either independently or collectively had been stated. The allegations against applicant No.1 – husband are more serious when it is stated that offence under Section 377 of the Indian Penal Code. The applicants have now produced on record the photographs to support their contention that they had in fact celebrated the birth of the girl child. But those photographs cannot be considered under the present Application as those photographs require proof, which

can be at the time of trial only. Same is the case as regards the furniture. Even applicant No.1 appears to have made complaint against respondent No.3 on 3rd June 2021. But then, the statements of the witnesses are in tune with the FIR. That much only can be expressed here. Unless the informant would have informed about the cruelty to her relatives, they would not have stated so before Police. Definitely two sisters-in-law, who are unmarried, are residing together with the parents and the brother.

8. At this stage, the affidavit-in-reply filed on behalf of respondent No.3 is also required to be considered and it appears that even till today applicant No.8 is giving threats and sending abusive messages to respondent No.3. Therefore, taking into consideration the FIR as well as the entire charge-sheet, this is not a fit case where this Court should exercise its inherent powers. As regards the married sisters of applicant No.1 and maternal uncle are concerned, they are stated to be residing separately, but it has been specifically stated that they used to come to the matrimonial house of the informant and at that time the periodical acts of cruelty have been stated. Therefore,

against the said applicants also the inherent powers of this Court cannot be exercised and the Application deserves to be rejected.

9. Accordingly, the Application stands rejected.

[RAJESH S. PATIL]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/SEP22