

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL) NO. 1059 OF 2019

1. Indrajit S/o. Shankar Goyar,
Aged About 46 years, Occu.: Service,
R/o. Prabhat Nagar, Plot No.30,
Devpur Dhule, Tal. Dist. Dhule.
2. Uday S/o. Shankar Goyar,
Aged about 59 years, Occu. : Worker.
3. Anita W/o. Uday Goyar,
Aged about 52 years, Occu. : Housewife.
4. Akshay S/o. Uday Goyar,
Aged about 25 years, Occu. : Student.
5. Gaurav S/o. Sunil Goyar,
Aged about 33 years, Occu.: Unemployed.

Applicant's No.2 to 5 are residents of Plot
No.91, Santaji Nagar, Opposite
Abhay College, Market Yard, Dhule,
Tq. & Dist. Dhule.

6. Sunil S/o. Shankar Goyar,
Aged about 57 years, Occu.: Service.
7. Sunita W/o. Sunil Goyar,
Aged about 50 years, Occu.: Housewife.

Applicants No.6 & 7 are residents of
CISF Quarters, 1st R. B. Barwaha,
Dist. Khargon (M.P)

--APPLICANTS

---VERSUS---

1. The State of Maharashtra, Through
its Police Station Officer,
Police Station, Dabki Road, Distt. Akola.

2. Rina W/o. Indrajit Goyar,
Aged about 34 years, Occu.: Housewife,
R/o. C/o. Govind Ramcharan Sarvan,
R/o. Walmiki Chowk, Near Shiv Mandir,
Old City Dabki Road, Shivaji Nagar,
Akola, Tq. & Distt. Akola.

--NON-APPLICANTS

Mr. Tejas Deshpande, Advocate for the Applicants.
Mr. S. M. Ghodeswar, A.P.P for the Non-applicant/State.
Mr. Ritesh R. Dawda, Advocate for Non-applicant No.2.

**CORAM : V. M. DESHPANDE AND
AMIT BORKAR, JJ.**

DATE : 04.05.2022.

ORAL JUDGMENT : (PER - AMIT BORKAR, J.)

1. Heard.
2. **Rule.** Rule made returnable forthwith.
3. By this application under Section 482 of the Code of Criminal Procedure, the applicants are challenging registration of the First Information Report bearing No.22/2019 dated 18.01.2019 registered with the non-applicant No.1 – Police Station against the applicants for the offences punishable under Sections 498A, 323, 406 read with Section 34 of the Indian Penal Code.
4. The First Information Report came to be registered against the applicants with the accusations that the marriage between the applicant No.1 and the non-applicant No.2 was

performed on 21.02.2006. It is alleged that the applicant No.1 started physical and mental harassment to the non-applicant No.2 immediately after the marriage. It is also alleged that the applicant Nos.2 and 3 instigated applicant No.1. At their instigation, the applicant No.1 used to abuse the non-applicant No.2. It is alleged that the applicant No.1 suffered a paralysis attack, at that time the non-applicant No. 2 had taken care of him but in spite of the said fact the applicant No.1 continued harassment to the non-applicant No.2. It is alleged that the applicants assaulted the non-applicant No.2 for non-payment of dowry amount.

5. During the pendency of the investigation the applicants have filed present application challenging registration of the First Information Report.

6. This Court on 01.10.2019 issued notice to the non-applicants. In pursuance of which, the respondent No.1-Investigating Agency has filed reply stating therein that the Investigating Agency has collected ample material to show that the applicants are involved in the crime alleged against the applicants.

7. The non-applicant No.2 has also filed reply stating that the applicants have caused physical and mental harassment to the non-applicant No.2. The non-applicant No.2 in her reply in paragraph No.20 has fairly stated that the ingredients of the offence under Section 406 of the Indian Penal Code are not fulfilled.

8. We have carefully considered the allegation in the First Information Report and having gone through the reply filed by the non-applicant No.2, we are satisfied that the allegations against the applicant Nos.2 to 7 are omnibus.

9. The only allegation against the applicant Nos.2 to 7 is to the effect that they used to instigate the applicant No.1 to abuse the non-applicant No.2. In absence of details, the ingredients of the offences alleged against the applicant Nos.2 to 7 are not fulfilled.

10. The Hon'ble Apex Court in the case of ***K. Subba Rao and Others Vs. State of Telangana and Others*** reported in ***(2018) 14 SCC 452*** observed that relatives of the husband should not be roped in on the basis of vague allegations unless specific instances of their involvement are set out. We are therefore, satisfied that

the continuation of present proceedings against the applicants would amount to abuse of process of Court.

11. However, we find that there are specific allegations against the applicant No.1. Insofar as the applicant No.1 is concerned, we are satisfied that the allegations against the applicant No.1 are *prima facie* sufficient to constitute offences alleged against the applicant No.1.

12. For the above reasons, we are satisfied that the First Information Report registered against the applicant Nos.2 to 7 requires to be quashed and set aside.

13. We therefore, pass following order :

- i] The Criminal Application is partly allowed.
- ii] The First Information Report bearing No.22/2019 dated 18.01.2019 registered with the non-applicant No.1 for the offences punishable under Sections 498A, 323, 406 read with Section 34 of the Indian Penal Code is quashed and set aside against the applicant Nos.2 to 7 only.
- iii] In so far as applicant No.1 is concerned, in view of concession by the non-applicant No.2 in her reply in

paragraph No.20, the registration of the offence against the applicant No.1 under Section 406 of the Indian Penal Code is also quashed and set aside.

14. Rule is made absolute in above terms. Pending application(s), if any, stand(s) disposed of.

JUDGE

JUDGE

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