

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

963 CRIMINAL APPLICATION NO.804 OF 2020

1. Sandip s/o Pundlik Gayake.
2. Appasaheb s/o Pundlik Gayake.
3. Seetabai w/o Pundlik Gayake.
4. Pundlik s/o Kachru Gayake.
5. Narayan s/o Popat Sonwane. **... Applicants**

Versus

1. The State of Maharashtra.
2. Kalpana w/o Sandip Gayake. **... Respondents**

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Mr. Anand Datta Gawale, Advocate for Applicants.

Mr. P. G. Borade, APP for Respondent No.1 / State.

Mr. Vikram R. Dhorde, Advocate for Respondent No.2.

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CORAM : **R. G. AVACHAT and
SANJAY A. DESHMUKH, JJ.**

DATE : 21st July, 2023.

Per Court:

1 Heard.

2 The learned counsel for the applicants, on instructions, withdraws the application of applicant No.1/husband of the respondent/informant. The application of applicant No.1, therefore, stands disposed of as withdrawn.

3 This application has been filed for quashment of FIR and

consequential charge-sheet in R.C.C. No.351 of 2019 instituted for the offence punishable under Section 498-A read with 34 of the Indian Penal Code.

4 What can be gathered from the FIR and police papers is that the respondent/wife married co-accused Sandip in May, 2018. On marriage, she started residing at her matrimonial home alongwith the present applicants, two of them are her parents-in-law and another one is brother-in-law while applicant No.5 is a distant relation of the husband. It is the case of the respondent/wife that all the applicants harassed and ill-treated her, physically and mentally as well with a view to coerce her to fetch Rs.2,00,000/- from her parents for starting of a business. An incident dated 15th December, 2018 has been quoted in the FIR.

5 It is also case of the respondent/wife that on intervening night of 29th May, 2019 and 30th May, 2019, she was alone at home. She was fast asleep. The entrance door was bolted from inside. All of a sudden, someone pulled the bed-sheet on her person. She noticed the present applicants standing around her. Two of them were armed with bottle containing poison. They were about to administer her poison forcibly. She, however, put up resistance. As a result thereof, the poisonous substance fell on her person. Due to foul smell thereof, she became unconscious to ultimately find to have been admitted to

hospital. It has further been alleged that the police official of Deogaon Rangari Police Station obtained her signatures on some blank papers. She had ultimately to approach the Superintendent of Police. She made grievance against the police station officer of Deogaon Rangari Police Station. Still, no cognizance of her complaint was taken. She had therefore, no option but to file an application to have an order for registration of a crime.

6 Based on the order passed by the learned Magistrate, initially crime was registered for the offences punishable under Sections 498-A and 307 read with 34 of the Indian Penal Code. During investigation, it was found that no offence of attempt on the life of the respondent/wife was made. Section 307 was, therefore, dropped. The same indicates falsity of the averments / allegations in the FIR. Admittedly, the FIR has been lodged pursuant to an application drafted by a legal eagle, that too after four months of the alleged incident of an attempt on her life. As such, suspicion hovers over the averments in the FIR. Necessarily the statements of relations of the respondent/wife are consistent with her case in the FIR. It is surprising that the FIR was registered four months after the alleged incident and thereafter, the clothes on the person of the respondent/wife were found to have been stained with some poisonous substance, since CFSL report has been received in the recent past. Be that as it may.

7 From the FIR itself it is evident that on 15th December, 2018, N.C. was registered based on the report lodged by the respondent/wife. In the FIR, it has been averred that the demand of Rs.2,00,000/- was made in connection with the very incident. Had the said averment been there in the report dated 15th December, 2018, the officer in-charge of the police station would necessarily have registered an FIR. The N.C. report is not forthcoming. As such, the averments in the FIR are necessarily afterthought and introduced by an expert in the field, since crime is registered pursuant to an order passed under Section 156(3) of Cr.P.C. Asking the applicants to stand trial based on such averments, would be an abuse of process of Court. The application therefore, succeeds to the extent of applicant Nos.2 to 5 only. Hence, the following order is passed:-

ORDER

- I. The application of applicant No.1 stands disposed of as withdrawn.
- II. The application is allowed in terms of prayer clauses (B) and (B-1) to the extent of applicant Nos.2 to 5 only.

[SANJAY A. DESHMUKH, J.]

[R. G. AVACHAT, J.]

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