

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

CRIMINAL APPLICATION NO.941 OF 2019

1. Kuldeep s/o. Vijaykumar Shewale
(*withdrawn*)
2. Vijaykumar s/o. Bhaid Shewale,
3. Sow.Shobha w/o. Vijaykumar Shewale,
4. Gajendra w/o. Krishnarao Ahire,
5. Sow. Durga w/o. Gajendra Ahire,
6. Sow. Rupali w/o. Gajendra Ahire,
7. Sow. Jyoti Jagdeep Wisave,
8. Sow. Manorama w/o. Bhavesh Chudasama ..Applicants

Vs.

1. The State of Maharashtra,
2. Sow. Seema w/o. Kuldeep Shewale ..Respondents

Mr.R.H.Mewara and Mr.B.K.Nukte, Advocate for applicants
Mr.P.N.Kutti, APP for respondent no.1
Mr.V.G.Salgare, Advocate for respondent no.2

**CORAM: R.G.AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATE: NOVEMBER 03, 2023**

ORDER (*Per Sanjay A. Deshmukh, J.*) :-

Heard.

2. Learned counsel for the applicants, on instructions, seeks leave to withdraw the application of applicant no.1 – husband.

3. Leave granted. The application of applicant no.1 stands disposed of as withdrawn.

4. By this application under Section 482 of the Code of Criminal Procedure, the applicants pray for quashment of the FIR, being Crime No.68 of 2019, registered with Nandurbar City Police Station, Tq. Nandurbar, Dist. Nandurbar, for the offences punishable under Sections 498-A, 294, 504 and 506 read with Section 34 of Indian Penal Code, Charge Sheet/Final Report No.45 of 2019 and the consequential proceedings in R.C.C. No.73 of 2019, pending before learned Judicial Magistrate, First Class, Nandurbar.

5. The First Information Report lodged by respondent no.2 - informant shows that there are allegations of demand of Rs.40 Lakhs for purchase of flat. She was harassed by her husband (applicant no.1). It is alleged that the husband committed unnatural sexual intercourse with her under influence of beer many a time. It is further alleged that on 11.12.2017, the applicant nos.4 and 5 along with husband of the informant directed the informant to stay at her government quarter. Since then, she is residing there. Her husband is not turning to her. He demanded Rs.40 Lakhs for the flat. Therefore, she lodged the report.

6. Learned counsel for the applicants submits that applicant nos.2 and 3 are in-laws of the informant; applicant nos.4 and 5 are maternal uncle and aunt of applicant no.1 (husband); and applicant nos.6 to 8 are sisters of applicant no.1, who are not concerned with the crime. There are no specific allegations against them. They are falsely implicated in this crime. Learned counsel for the applicant also pointed out that an application for restitution of conjugal right has been filed before the court of Civil Judge, Senior Division, Nandurbar on 30.06.2018 by the husband of the informant. Thereafter, the FIR has been lodged by the informant on 28.02.2019. He, therefore, urged for allowing the application.

7. Learned APP and learned counsel for respondent no.2 would, on the other hand, urged for rejection of the application.

8. Perused the FIR and charge sheet. Considered the submissions advanced by learned counsel for the parties.

9. There are no specific allegations of treating the applicants with cruelty on the part of applicant nos.2 to 8. The incident of 19.02.2017 does not constitute the ingredients of Section 498-A of Indian Penal Code. This shows that these

applicants are falsely implicated in this crime. Considering the fact that the FIR is lodged after filing of the application by her husband for restitution of conjugal rights on 30.06.2018, present application deserves to be allowed as regards applicant nos.2 to 8.

10. In the result, the application is allowed in terms of prayer clauses (B) and (E), qua applicant nos.2 to 8.

No costs.

[SANJAY A. DESHMUKH, J.]

[R.G. AVACHAT, J.]

KBP