



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY PVT. PARTY NO.95 OF 2018

Chhayabai Takdir More,
Age: 33 years, Occu: Household.,
R/o.At.Post Ambhone,
Tq. Chalisgaon, Dist- Jalgaon,
At present Shindol, Tq- Soygaon,
Dist. Aurangabad

... Applicant
(Orig. Complainant)

Versus

1. The State of Maharashtra,
Through Investigation Officer,
Soygaon, Tq- Soygaon,
Dist. Aurangabad
2. Takdir s/o Jamrao More,
Age: 34 years, Occu. Agril.,
3. Durgabai w/o Jamrao More,
Age: 59 years, Occu. Agril.,
4. Shankar s/o Jamrao More,
Age: 44 years, Occu. Agril.,
5. Sunita w/o Shankar More,
Age: 39 years, Occu. Agril.,

All above R/o. At.Post Ambhone,
Tq. Chalisgaon, Dist- Jalgaon,

6. Kailash Khandu Saidane,
Age: 44 years, Occu. Service,
R/o. At. Post Nawalnagar,
Tq. and Dist- Dhule.
7. Mayabai Kailash Saidane,
Age: 39 years, Occu. Agril.,

R/o.At.Post Nawalnagar,
Tq. and Dist- Dhule.

8. Daga s/o Rajaram Kedar,
Age: 46 years, Occu. Agril.
R/o.At.Post Karmod, Tq.Chalisgaon,
Dist- Jalgaon.
9. Bebabai w/o Daga Kedar,
Age: 42 years, Occu. Agril.,
R/o. At. Post Karmod,
Tq.Chalisgaon, Dist- Jalgaon.
10. Bhaidas Namdeo More,
Age: 49 years, Occu. Agril.,
R/o.At.Post Ambhone, Tq. Chalisgaon,
Dist- Jalgaon

... Respondents
(Res. Nos. 2 to 10
are Orig. Accused)

...

Mr. Gautam J. Pahilwan, Advocate for Applicant.
Mr. N. D. Batule, APP for Respondent No.1 – State.
Mr. Ujwal S. Patil, Advocate for Respondent Nos.2 to 10

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 19th APRIL, 2024

PRONOUNCED ON : 23rd APRIL, 2024

ORDER :

1. Original complainant, at whose instance prosecution was launched for offence punishable under sections 498A read with section 34 of Indian Penal Code (IPC), is hereby seeking leave to question the judgment and order of acquitted passed by learned Judicial Magistrate First Class, dated 17.02.2018.

2. According to learned counsel for applicant, marriage between complainant and accused no.1 is of 2003. After marriage,

there was ill treatment on account of non fulfillment of dowry demand of Rs.50,000/-. That, there was continuous mental as well as physical harassment. That, case was substantiated and proved by examining witnesses. Therefore, learned counsel pointed out that, all ingredients for attracting offence were available on record, but trial court disbelieved the prosecution's version on the ground that there was delay and that the prosecution failed to establish the case beyond reasonable doubt. It is pointed out that, there is improper appreciation of evidence as well as law. That, there being good case on merits in appeal, learned counsel seeks leave.

3. Resisting the relief, learned counsel for accused pointed out that, evidence of complainant and other witnesses was not inspiring confidence. That, they were not consistent. There were general and omnibus allegations. That, nature of ill treatment and specific instances are not narrated by complainant. That, there is admission to that extent in cross and hence, learned counsel submits that, there is no merits in the application and no case for appeal as well.

4. In the light of above submissions, perused the documents on record. It seems that, Chayabai was married to accused no.1 on 07.04.2003. She has alleged physical and mental

ill treatment on account of demand and also raised allegations of taunting and commenting for unable to cook food, to be dark in complexion. She has alleged demand of Rs.50,000/- and cruelty on account of its non fulfillment. On account of her evidence, she has adduced evidence of herself at Exh.104, evidence of her younger sister at Exh.108 and evidence of one Manik Borse as PW3 at Exh.126.

5. On going through papers, it seems that, there are allegations that physical and mental cruelty during initial period for not preparing food properly and taunting on her complexion. Along with husband, his other family members are also roped in. Which of the accused exactly commented and taunted has not been clarified by her. Then, she has alleged demand of Rs.50,000/-. Even said allegations are general in nature. For what purpose demand was made and exactly when said demand was raised has also not come on record. As pointed out by learned counsel for respondents, there is admission by complainant herself that, she has not provided specific dates and period, on which she was maltreated.

6. Therefore, *ex facie*, allegations seem to be general in nature. On the basis of omnibus allegations, charges cannot be said to be made out. No good ground is made out before this court to

grant leave. Hence, I proceed to pass the following order :-

ORDER

- (i) Leave is refused.
- (ii) Application is rejected.

(ABHAY S. WAGHWASE, J.)