

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.471 OF 2014

- [1) Sumersing @ Komal Durgasing Patil,
Age-32 years, Occu:Service,
R/o-House of Dnyaneshwar Musale,
Musale Niwas, Delhi Gate,
Ahmednagar,]
**(Writ Petition is dismissed as
withdrawn as against Petitioner No.1
as per order dated 17th June 2014),**
- 2) Anil s/o Durgasing Patil,
Age-42 years, Occu:Pvt. Service,
R/o-Plot No.3, Gut No.91,
Asara Apartment, Amdar Road,
Sangram Nagar, Satara Parisar,
Aurangabad,
- 3) Sonal w/o Anil Patil,
Age-36 years, Occu:Pvt. Service,
R/o-Plot No.3, Gut No.91,
Asara Apartment, Amdar Road,
Sangram Nagar, Satara Parisar,
Aurangabad,
- 4) Pramila w/o Durgasing Patil,
Age-65 years, Occu:Household,
R/o-At Rajora, Post-Nimgaon,
Tq-Yawal, Dist-Jalgaon,
- 5) Rekha w/o Balkrushna Patil,
Age-45 years, Occu:Household,
R/o-Plot No.2/5, Gut No.86,
Kedarnath Society, Dadawadi,
Jalgaon, Tq. & Dist-Jalgaon,

- 6) Savita w/o Dinesh Patil,
Age-33 years, Occu:Household,
R/o-Pataleshwar Galli, Dharangaon,
Tq-Dharangaon, Dist-Jalgaon,
- 7) Dinesh s/o Jagatsing Patil,
Age-35 years, Occu:Business,
R/o-Pataleshwar Galli, Dharangaon,
Tq-Dharangaon, Dist-Jalgaon,
- 8) Meena w/o Rajesh Patil,
Age-38 years, Occu:Household,
R/o-Avirbhav Society No.2,
Housing Road, Pandesara,
Plot No.AB-1, Surat (Gujrat),
- 9) Rajesh s/o Budha Patil,
Age-40 years, Occu:Driver,
R/o-Avirbhav Society No.2,
Housing Road, Pandesara,
Plot No.AB-1, Surat (Gujrat),

...PETITIONERS

VERSUS

- 1) The State of Maharashtra,
Through the Police Station Officer,
Zilla Peth, Police Station,
Jalgaon,
- 2) Anita w/o Sumersing @ Komal Patil,
Age-28 years, Occu:Household,
R/o-Ravish Housing Society,
Kinetic Chowk, Near Ganpati Temple,
Ahmednagar,
At present- R/o- Plot No.10,
Ajay Colony, Jalgaon.

...RESPONDENTS

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Shri Prakash S. Paranjape Advocate for
Petitioner Nos.2 to 9.

Writ Petition is dismissed as withdrawn
as against Petitioner No.1 as per order
dated 17th June 2014,

Shri A.V. Deshmukh, A.G.P. for Respondent No.1.

Shri V.B. Patil Advocate for Respondent No.2.

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**CORAM: S.S. SHINDE AND
A.I.S. CHEEMA, JJ.**

DATE OF RESERVING JUDGMENT : 25TH JUNE, 2015

DATE OF PRONOUNCING JUDGMENT: 3RD JULY, 2015

JUDGMENT [PER A.I.S. CHEEMA, J.] :

1. Rule, returnable forthwith. By consent
of the parties, taken up for final hearing.

2. This Petition has been filed by the
Petitioners (original accused Nos.1 to 9) against
whom Regular Criminal Case No.372 of 2014 has been
filed before the Chief Judicial Magistrate,
Jalgaon under Section 498-A, 406, 323, 504, 506,
507 read with Section 34 of the Indian Penal Code,
1860 ("I.P.C." for short). Present Petition has
been filed to quash the proceedings against the

Petitioners.

3. After filing of Petition, the same was not pressed for Petitioner No.1 - Sumersing and consequently, the matter stood dismissed as regards Petitioner No.1 - husband.

4. The counsel for the Petitioner Nos. 2 to 9 (hereafter referred as "Petitioners - accused") has submitted that the accused No.1 Sumersing was married to Respondent No.2 on 16th December 2011 and thereafter Respondent No.2 - original complainant and the accused No.1 were cohabiting together at Ahmednagar. The Petitioner Nos. 2 to 9 were not residing at Ahmednagar and they were living at different places, which is clear from the cause title of the Petition itself. There were disputes between the husband and wife and on 29th July 2012 the complainant left matrimonial home and went to Jalgaon, to the place of her parents. After eight months she went to the

Police Station and filed F.I.R. against all the Petitioners. She has tried to drag in all the relatives who are staying at different places like Aurangabad, Jalgaon and as far as Surat in Gujrat State. The F.I.R. filed and the charge-sheet shows vague allegations made against the Petitioners. The complainant tried to show as if all these persons from different places assembled on particular given dates so as to harass her. The counsel submitted that apparently and obviously the attempt is to drag in all the relatives only because the husband and wife have not been able to get along together.

5. Against this, the learned counsel for Respondent No.2 - original complainant submitted that the F.I.R shows that the accused No.1 husband was addicted to liquor and the Petitioner No.4 - Pramila, mother in law, used to taunt the complainant and used to instigate the husband to beat the wife. The F.I.R. gives details as to how

all the Petitioners gathered on 29th April 2012 at Ahmednagar and abused and tried to kill the complainant. The complainant was taken to Jalgaon by her father on 30th April 2012. Subsequently on 4th June 2012 the accused No.1 - husband took the complainant to his place again but thereafter the husband was taking the wife to beer bar and making her sit there while he was consuming liquor. The counsel submitted that twice in the month the relatives used to gather at Ahmednagar and used to say that the husband cannot pull on in his salary and the complainant should get Rs.40,000/- from her father so that cyber cafe could be started. It has been argued by the learned counsel that ultimately the complainant left Ahmednagar on 29th July 2012 and since then is residing at the place of her father and the F.I.R. came to be filed on 19th March 2014.

6. We have gone through the charge-sheet. The counsel for the complainant admitted that in

the investigation, statements collected are only of the immediate relatives of the complainant or persons from the Bar where allegedly the husband was taking the wife and used to consume liquor. We are dealing in the present Petition not with the husband but the other relatives who have been made accused.

7. The counsel for the complainant has not disputed the different addresses shown of the Petitioner Nos.2 to 9 in the Petition. Perusal of the F.I.R. itself shows the complainant alleging that after the marriage dated 16th December 2011 she had gone to reside with the husband at Ahmednagar as he was working in Bajaj Finance Lending Company. She claims that she was residing with the husband and mother in law (Petitioner No.4). She claims that Petitioner No.4 used to say that in the marriage father of complainant had not given articles of day to day use. She used to ignore such talk. When the husband was coming

back, the mother in law used to poison his ears and getting instigated the husband used to abuse and beat her. Fifteen days after the marriage, the other accused (Petitioner Nos.2, 3, 5 to 9 have been named in the F.I.R.) came to their place and they were also instigating the husband and he was abusing and beating her. She was being told that the husband had taken loan for the marriage and she should bring Rs.25,000/- from her father and so saying they were beating the complainant and took away her ornaments. The F.I.R. further mentions that on 29th April 2012 all the accused persons came to Ahmednagar and picked up quarrel with her and abused and tried to kill her but she some how slipped away and phone called her father who came on 30th April 2012 and tried to explain to the accused persons and then took her away to Jalgaon. On 2nd June 2012 her husband came to Jalgaon and her father explained the things to the husband and on 4th June 2012 she again came to Ahmednagar and since then she and her husband were

living together. However, now the husband started taking her to Sangam and Yashraj Beer Bar and she was made to sit at table while he consumed the liquor. There are further allegations against the husband. F.I.R. further adds that twice in a month all the relatives used to come at Ahmednagar and were claiming that she should bring Rs.40,000/- to start cyber cafe and they used to beat and abuse her and she ultimately went to Jalgaon on 29th July 2012. There are some further allegations against the husband.

8. There are similar statements of the other relatives in the charge-sheet. At the time of the arguments, the learned counsel for the complainant pointed out that there were certain letters written by the complainant to her father and these letters show that the complainant was subjected to ill-treatment by all the accused persons. At the time of arguments, we asked learned counsel for the complainant to refer to provisions of Section

498-A of I.P.C. and looking to the explanation regarding "cruelty" as incorporated in Section, show how the same could be gathered from the letters. The learned counsel mentioned that the letters show that the mother in law used to taunt at the complainant and the complainant was being subjected to cruelty.

9. Looking at the neatly written letters, and the other material available on record, it is apparent that although the F.I.R. claimed that on 29th April 2012 all the accused gathered at Ahmednagar and the complainant was beaten in a manner that there was an attempt to kill her, the letter dated 10th July 2012 which has been filed, when perused, does not show any reference to any such incident. The allegations against Petitioners are omnibus and general in nature. The Petitioner Nos. 2 to 9 were clearly not residing with the couple at Ahmednagar. The F.I.R. does try to make an effort to show as if earlier mother in law was

residing at Ahmednagar, however, looking to the record, there is grave doubt about the truthfulness of the allegations.

10. The Hon'ble Supreme Court in the matter of **Chandralekha and others vs. State of Rajasthan and another, reported in 2013 ALL S.C.R. 667**, with reference to matter under Section 498-A of I.P.C. observed with reference to facts of that matter in Para 8 as under:

"8. We must, at the outset, state that the High Court's view on jurisdiction meets with our approval and we confirm the view. However, after a careful perusal of the FIR and after taking into consideration the attendant circumstances, we are of the opinion that the FIR lodged by respondent 2 insofar as it relates to appellants 1, 2 and 3 deserves to be quashed. The allegations are extremely general in nature. No specific role is attributed to each of the appellants. Respondent 2 has stated that after the marriage, she resided with her husband at Ahmedabad. It is not clear whether appellants 1, 2 and 3 were residing with them

at Ahmedabad. The marriage took place on 9/7/2002 and respondent 2 left her matrimonial home on 15/2/2003 i.e. within a period of seven months. Thereafter, respondent 2 took no steps to file any complaint against the appellants. Six years after she left the house, the present FIR is lodged making extremely vague and general allegations against appellants 1, 2 and 3. It is important to remember that appellant 2 is a married sister-in-law. In our opinion, such extra ordinary delay in lodging the FIR raises grave doubt about the truthfulness of allegations made by respondent 2 against appellants 1, 2 and 3, which are, in any case, general in nature. We have no doubt that by making such reckless and vague allegations, respondent 2 has tried to rope them in this case along with her husband. We are of the confirmed opinion that continuation of the criminal proceedings against appellants 1, 2 and 3 pursuant to this FIR is an abuse of process of law. In the interest of justice, therefore, the FIR deserves to be quashed insofar as it relates to appellants 1, 2 and 3."

11. Keeping the above observations in view and going through the present record, looking to the nature of offence and tendency of complainants

in such matters, we have serious doubts regarding the allegations made against Petitioner Nos.2 to 9 which are vague and general in nature. The complainant has tried to show as if all these relatives from different corners of Maharashtra and Gujrat were, twice in a month, coming down as if just to harass her. In that view of the matter, in our opinion, the continuation of present criminal proceeding against Petitioner Nos. 2 to 9 would be abuse of process of law.

12. For above reasons, the charge-sheet as against present Petitioner Nos.2 to 9 is quashed and set aside. The matter to proceed as against accused No.1 - Sumersing.

13. Rule made absolute on the terms indicated above. Writ Petition stands disposed of, accordingly.

[A.I.S. CHEEMA, J.]

[S.S. SHINDE, J.]