

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

Office Memoranda of appearance, directions and orders.	Notes, of Court's orders and Registrar's orders.	Office Coram, Court's or Judge's orders.
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CRIMINAL WRIT PETITION NO. 1141 OF 2014

NANASAHEB BHAUSSAHEB DIGHE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Petitioners : Mr. Bhide Vinod Y .
APP for Respondent No.1: Mr. S. A. Ambad.
Advocate for Respondent No.2: Mr. Abhijit Choudhari h/f
Mr. D. J. Choudhari.

CORAM: T. V. NALAWADE, J.
DATED: 15th JUNE, 2015.

PER COURT:

1. The petition is filed for relief of quashing of the proceeding of R.T.C. No.209 of 2013 which is pending in the Court of learned J.M.F.C., Shrirampur, District Ahmednagar and which is filed as a private complaint for offences punishable under sections 498-A, 34 etc. of Indian Penal Code by Respondent No.1. Both the sides are heard.
2. The statements made show that the marriage of the original complainant with Petitioner No.1 took place

in the year 2003. The complainant got one issue in November, 2003 from Petitioner No.1. There was some dispute and so the complainant and husband started living separate from each other from February, 2006. One divorce proceeding was filed by Petitioner No.1 and that proceeding came to be disposed of as compromise took place. The wife returned to matrimonial house on 17th June, 2010 but she started living with her parents immediately and it is her case that she was driven out of the matrimonial house. The wife filed proceeding under the provisions of Protection of Women from Domestic Violence Act on 15th February, 2012 and she filed the private complaint on 27th June, 2013. The order of process came to be issued on 29th April, 2014, after following the procedure. Even the order under section 202 Cr.P.C. was made and after making the necessary inquiry by the Magistrate the issue process order was made. During the inquiry statements of witnesses are recorded and the relatives of the complainant on parent side has given the statements which are in accordance with the allegations made in the complaint.

3. In the complaint, allegations are made by the wife

that the husband and his parents started demanding Rs.1 Lakh from her parents as he wanted this amount for making improvement in agriculture and for making investment in the agriculture. Allegations are made that they were abusing her, picking up quarrels with her and they were giving beating to her. Allegations are made that the husband used to give threat that he will marry second wife if his demand was not met with. It is her case that due to this conduct of the husband she filed proceedings under the provisions of Protection of Women from Domestic Violence Act.

4. It is the case of wife that her proceeding filed under Protection of Women from Domestic Violence Act was kept for hearing by the Court on 30th May, 2013 and on that day all the accused said to her in the Court compass that the complainant will not be accepted in the matrimonial house unless their demand was met with. The complainant has made allegations that on 23rd June, 2013 all the accused picked up quarrel after coming to the house of her parents from Kharegaon and they tried to obtain her signatures on papers which they had brought and they gave beating to her. The verification of

the complainant is recorded and similar statements are given by the aforesaid witnesses during inquiry made under section 202 of Cr.P.Code.

5. The learned counsel for the husband has produced some record like one consent letter signed by father of the complainant which is dated 26th May, 2007, the written statement filed in divorce proceedings by the wife, compromise purshis filed in the Hindu Marriage Petition and copy of proceeding filed under the provisions of Protection of Women from Domestic Violence Act, 2005 and copy of affidavit filed in that proceeding along with cross examination.

6. The learned counsel for the husband submitted that the father of the complainant has given in writing that the wife was suffering from some mental sickness from prior to the date of marriage and due to that she had attempted to commit suicide 2, 3 times and that is the cause of dispute. He submitted that the father of the complainant had given in writing that she would behave well but her conduct never improved. Learned counsel submitted that different stands were taken in different proceedings file by the wife against him.

7. Aforesaid is the defence of the husband and his parents. The compromise purshis shows that even when there was some interim order made in her favour in Hindu Marriage Petition she gave up her right to recover that amount. She compromised and she returned to matrimonial house for cohabitation on 16th June, 2010. She has one issue from the Petitioner No.1. All these circumstances shows that she is interested in resuming cohabitation but the husband is interested in taking divorce. As the allegation that the wife is mentally sick is not admitted in any of the proceedings and the documents on which the husband wants to place reliances need to be proved, this circumstance need not be discussed in a proceeding like present one.

8. From the aforesaid circumstances, it cannot be said that false or vague allegations are made. The learned Magistrate has followed the procedure and process has been issued on the basis of the aforesaid material. The learned counsel for the Petitioner placed reliance on the case of (i) "**Swapnil and others V/s State of Madhya Pradesh**" [2014 (2) B.Cr.C. 866 (SC)], (2) "**Manisha Prafulchandra Shelke V/s The State of**

Maharashtra” [2014 ALL.MR (Cri) 3031], (3) “Neelu Chopra and Anr. V/s Bharti” [2010 Cri.L.J.448] and “Shakson Belthissor V/s State of Kerala and Anr.” [2010 AIR SCW 2494] and submitted that the proceeding needs to be quashed and set aside. The facts and circumstances of each and every case are always different. The relevant facts are already quoted by this Court. The observations made in the cases cited supra, cannot help the petitioner in the present case. This court sees no ground to give the relief claimed. The petition stands dismissed.

[T. V. NALAWADE, J.]

Dt.15/06/2015
ans/1141