

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1164 OF 2014

1. Salima Ayaz Shaikh
Age 67 years, Occupation: Household.
2. Sajid s/o Ayaz Shaikh
Age 35 years, Occupation: Business
3. Ali s/o Ayaz Shaikh
Age 30 years, Occupation: Business
4. Imran s/o Ayaz Shaikh
Age 24 years, Occupation: Business

Petitioners 1 to 4 r/o Near Maruti Temple
Sarjapura Dist. Ahmednagar

5. Matin s/o Ayaz Shaikh
Age 36 years, Occupation; Business
R/o Mumbai
6. Najema Gulfam Shaikh
Age 34 years, Occupation: Household
R/o At Post Faltan
Aksham Colony, District: Satara
7. Abeda Sardar Pathan
Age 31 years, Occupation: Household
R/o At Post Supa, Taluka Parner
District: Ahmednagar

... **Petitioners**

VERSUS

- 1) The State of Maharashtra
- 2) Smt. Heena Kausar Mohd. Gaus Shaikh
Age 19 years, Occupation: Household
R/o c/o Shaikh Abu Sahema Nisar Ahmed
Rahmatnagar, Near Bombay Bakery
Taluka Sangamner, District: Ahmednagar

... **Respondents**

Mrs. S. T. Kazi P. Advocate for petitioners
Mr. S. B. Pulkundwar, APP for the respondent-State.
Mr. N. B. Narwarde, Advocate for respondent No.2

**CORAM : T. V. NALAWADE &
SMT. I. K. JAIN, JJ.**

DATE : 15th April, 2015

JUDGMENT (Per Smt. I. K. Jain, J.)

Rule. Rule is made returnable forthwith by consent of the parties.

Criminal Writ Petition is heard finally.

2. This petition under Article 227 of the Constitution of India and section 482 of the Code of Criminal Procedure is filed for quashing and setting aside the proceedings in R.T.C. No. 35/2014, arising out of FIR in Crime No.1 -199/2013 registered with Sangamner City Police Station, District Ahmednagar for the offences punishable under sections 498-A, 323, 504, read with 34 of the Indian Penal Code, pending before the Judicial Magistrate, First Class, Sangamner District Ahmednagar.

3. We have heard the parties. Perused police papers.

4. Respondent No.2 Heena Kausar is complainant. She was married to Mohd. Gaus Shaikh on 14.10.2012. At the time of marriage, her parents gifted some gold ornaments, wrist watch and Rs.10,000/- for purchasing suit for bride groom. According to complainant, she was treated properly for one month in the beginning. In the second week of November, 2012, her husband asked her to bring Rs.50,000/- for purchasing a rickshaw. Considering the financial condition of her father, a truck driver by

profession, she expressed her inability to meet with the demand. So, she was physically and mentally tortured and kept without food. It is alleged that her husband and others in family used to abuse and beat her. She was also threatened to her life.

5. On 15.12.2012, her husband dropped her to her maternal place. That time she disclosed about the harassment to her parents. Then on 11.12.2013, she reported the incident to Sangamner City Police Station.

6. On going through the FIR, it can be seen that petitioner Nos. 1 to 4 were residing in the same house with complainant and her husband. FIR discloses specific allegations of demand of money and ill-treatment at the hands of petitioner Nos. 1 to 4. As FIR shows prima facie involvement of petitioner Nos. 1 to 4, we are not inclined to exercise discretion to that extent.

7. Petitioner No.5 Matin is brother-in-law of complainant. He was residing separately at Mumbai. Similarly, petitioner Nos. 6 and 7 sister-in-laws were residing at Faltan District Satara and Parner District Ahmednagar, respectively. No details are given in FIR regarding their visits to the house of complainant. No instance is quoted attributing specific role to petitioner Nos. 5 to 7. Hence to prevent the abuse of process of law we find it a fit case to intervene and exercise discretion in respect of petitioner Nos.5 to 7.

8. In the result, Criminal Writ Petition No.1164 of 2014 is partly allowed.

9. Proceedings in R.T.C. No. 35/2014 pending before the Judicial Magistrate, First Class, Sangamner for the offences punishable under sections 498-A, 323, 504, read with 34 of the Indian Penal Code are hereby quashed and set aside in respect of petitioner No. 5 Matin, No.6 Najema and No.7 Abeda.

10. Criminal Writ Petition to the extent of Petitioner Nos.1 to 4 stands dismissed.

11. Rule is made partly absolute in aforesaid terms.

(SMT. I. K. JAIN, J.)

(T. V. NALAWADE, J.)

JPC