

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.314 OF 2015

1. Prashant Suresh Borse,  
Age-36 years, Occu-Service,  
R/o C/o Udgir Dairy, Tq.Udgir,  
Dist.Latur,

2. Ratnamala W/o Suresh Borse,  
Age-59 years, Occu-Household and  
Social work,

3. Dipali d/o Suresh Borse,  
Age-26 years, Occu-Education,  
Petitioner Nos. 2 and 3 R/o Sharda Nagar,  
Deopur, Dhule, Tq. and Dist. Dhule

PETITIONERS

VERSUS

1. The State of Maharashtra

2. Sow.Urmila w/o Prashant Borse,  
Age-22 years, Occu-Household,  
R/o C/o Trambak Bhile Deore,  
Deur (Bk.), Tq. and Dist. Dhule.

RESPONDENTS

Mr.N.B.Narwade, Advocate for the petitioners.

Mr.N.T.Bhagat, APP for respondent No.1.

Mr.Joydeep Chatterji, Advocate for respondent No.2.

( CORAM : RAVINDRA V. GHUGE, J.)

DATE : 29/06/2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the  
consent of the parties.

2. The petitioners, by this petition, seek a direction for quashing the proceedings in Cri.Misc.Appl.No.63/2015 pending before the learned Judicial Magistrate, F.C. Dhule, under the Protection of Women from Domestic Violence Act, 2005.

3. Respondent No.2 is the original complainant. Petitioner No.1 is the husband of the complainant. Petitioner No.2, is the mother in law of the complainant and petitioner No.3 is the sister of petitioner No.1 and hence sister in law of respondent No.2/ complainant.

4. The contention of the petitioners is that the complaint lodged by the complainant dated 13/01/2015 bears a false and concocted story. Instances of beating, illtreatment, abuse and demand of Rs.15,00,000/- are totally false. Same are a figment of imagination and they find place in the complaint only on account of the vindictive attitude of the complainant.

5. Learned Advocate has taken me through the entire petition. He then submits that the father of the complainant has mentioned in his written statement (undated) with the Deopur Police Station that the complainant had left the marital home on 01/12/2013 for the purpose of casting her vote in the Z.P. Elections at the parents home.

Since then she has not been residing in her marital home. He made an attempt for reconciliation on 30/03/2014 by reaching the place of her husband requesting for allowing his daughter to enter the marital home and continue to live in the said marital home. However, the petitioners did not allow the complainant to enter the marital home. Based on this statement which is undated, the petitioners contend that it is indicative of the fact that the original complainant has not been residing at her marital home since 01/12/2013. As such, all the contentions mentioned in the complaint are baseless and aimed at harassing the petitioners.

6. He then has indicated from a document at page No.44 of the petition paper book, which is a vehicle registration certificate, which indicates that the vehicle was hypothecated to a Finance Company and as such there was no question of the father of the complainant taking a loan on the said vehicle to the extent of Rs.5,00,000/- and that the said amount was paid to satisfy the greed of petitioner No.1 / husband.

7. Learned Advocate has then canvassed that petitioner No.2 is the mother in law and is aged about 60 years. She has been unnecessarily dragged by the complainant in her complaint only out

of her animosity towards the petitioners. There are no allegations against her.

8. It is then pointed out that petitioner No.3 is a college going student. Though she lives under the same roof with her mother and brother, she had no role to play in the so called act of illtreatment and beating.

9. It is, therefore, submitted that the complaint filed by the complainant deserves to be quashed. Reliance is placed on the reported judgment of this Court in the matter of Jayesh Uttamrao Khairnar Vs. State of Maharashtra, 2010 All M.R. (Cri.) 2259.

10. Mr.Chatterji, learned Advocate for respondent No.2/ complainant submits that though the father of the complainant may have recorded his statement before the concerned police station, it remains un-controverted that the complainant has left the marital home on 01/12/2013. The incident narrated in the complaint is of the same date. Her father, however, submits in the statement that an attempt was made to have his daughter join the company of her husband, but in vain. The petitioners were not inclined to allow the complainant in her marital home.

11. He further submits that the complaint filed by the complainant narrates her illtreatment and the agony that she has suffered. It would be a matter of trial in order to establish the acts alleged to have been committed by the petitioners. It is settled law that if there is some material before the Court in order to initiate proceedings, such proceedings cannot be quashed merely on the ground that the accused may have a good case in defence. He, therefore, prays for the dismissal of this petition.

12. I have considered the submissions of the learned Advocates.

13. The event narrated in the complaint is said to have occurred on 01/12/2013. The complainant has voiced her illtreatment and the physical abuse that she may have suffered, in her complaint. It is also stated that the petitioners have extracted apologies from her by threatening her and it was under force, duress and coercion that she had written such statements as was desired by the petitioners.

14. In so far as the statement of the father of the complainant is concerned, ex-facie it appears to be an attempt to give a clean chit to the petitioners. He has tried to state that his daughter was never illtreated, never abused and never beaten. Per contra, the

complainant, who claims to have actually suffered physical and mental abuse, is the nucleus of the litigation. Her statement and her contentions in the complaint are more significant and germane.

15. In so far as petitioner No.3 is concerned, it is said in the complaint that on one occasion, she had held the complainant when the petitioner Nos. 1 and 2 had assaulted her. It is canvassed that she is an unmarried college going student and in the face of there being no specific allegations against her, she would be unnecessarily made to suffer the rigours of litigation and which is likely to affect her prospects as a student as well as with regard to her marriage.

16. At this prima-facie stage, in my view, there is enough material before the learned Magistrate to proceed with Cri.Misc.Appl.No. 63/2015 to the extent of petitioner Nos. 1 and 2. As such, this petition succeeds only to the extent of petitioner No.3 Deepali.

17. In so far as the report relied upon by the petitioners in the matter of Jayesh Uttamrao (supra) is concerned, the facts reveal that the complainant was not residing in her marital home for a period of about 2 years prior to her application. So also the said application did not indicate that her case would fall under section 20(1) of the

Act.

18. I do not find that the view taken by this Court would be of any assistance to the petitioners considering the fact that the alleged incident of severe beating is dated 01/12/2013 and thereafter the complainant had left her marital home. Her complaint dated 13/01/2015 is based on events that have allegedly occurred on 01/12/2013, pursuant to which she had left her marital home.

19. In the result, this petition is partly allowed in terms of prayer clause B, only to the extent of petitioner No.3 Deepali Suresh Borse, who is respondent No.3 in the Court below. This petition stands dismissed to the extent of petitioner Nos.1 and 2 namely Prashant Suresh and his mother Ratnamala Suresh.

20. Rule is made partly absolute in the above terms.

21. No costs.

( RAVINDRA V. GHUGE, J.)