

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

919 CRIMINAL WRIT PETITION NO.13 OF 2009

1. Ramjani Khan Mohammad Hussain,
Age 42 years, Occu. Business,
R/o Khizrabad, near Majestic Nagar,
Indore, Tal & District Indore,
(Madhya Pradesh).
2. Shaikh Yusuf S/o Shaikh Husain,
Age 45 years, Occu. Business,
3. Shaikh Latif S/o Shaikh Husain,
Age 52 years, Occu. Business,
Both R/o Khazrana, Block No.40,
Majestic Nagar, Indore,
Tal. & District Indore (Madhya Pradesh) ... Petitioners

Versus

1. The State of Maharashtra
2. Wasima Begam Shaikh Javed,
Age 25, Occu. Household,
R/o Haldi Galli, Vaijapur,
Tal. Vaijapur, Dist. Aurangabad ... Respondents

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Mr. J.R.Shaikh, Advocate for Petitioners
Mr. R.V.Dasalkar, AGP for State

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CORAM : T.V.NALAWADE, AND
SUNIL K. KOTWAL, JJ.

DATED : 20th July, 2017

ORAL JUDGMENT (Per Shri. T.V.Nalawade, J.) :-

1. This petition is filed for quashment of the RCC No. 275/2008 presently pending in the Court of learned Judicial Magistrate (First Class), Vaijapur for the offence punishable under sections 498-A read with 34 of the Indian Penal Code (For the sake of brevity, "IPC" hereinafter) to the extent of the petitioners only.

2. Heard learned counsel for petitioner and APP for State.

3. It is the contention of the petitioners that they are not relatives of the first informant and they do not fall within the ambit of Section 498-A of IPC. It was also submitted that, there is no specific allegation against the petitioners which can come under the provisions of Section 498-A of IPC and so the Regular Criminal Case needs to be quashed, as against them.

4. This Court has carefully gone through the complaint, which was referred to police and in which after making investigation charge sheet is filed by the Police. In para No.1 of the complaint, the relationship of accused No.6 is mentioned as he is maternal uncle of the husband. Relationship of the accused Nos.7 and 8 is mentioned as the uncles of the husband. Thus the specific relations are mentioned in the complaint. In para No.2, 3 and 4 of complaint there are specific

allegations even against accused Nos.6, 7 and 8. There is allegation that, these accused were instigating the other accused like husband and his parents to give ill-treatment to the first informant - wife, as they wanted to see that she was deserted and then daughter of accused No.6 can perform marriage with the husband of the informant. They were ready to give dowry of Rs. 2,00,000/- (Rupees Two Lakh only) for such marriage of the husband of the informant. They were making an attempt to see that the first informant was driven out of matrimonial house. There is also allegation that, all the accused were making attempt to see that people started saying that first informant is sick and she was possessed by ghost. Allegations are made against them that all the accused were asking first informant to bring dowry which is in para No.8.

5. The learned counsel for petitioner placed reliance on observation made by Calcutta High Court in ***Priti Kumar Kar and Ors Vs. State of W. B. and Anr. [2009 Cri.L.J. 1423]***. This case is of no help to the petitioner as the High Court observed that, the persons who can be made accused under Section 498-A of IPC needs to be relatives of the husband either by blood or by marriage. Accused are said to be related through blood.

6. Further reliance was placed on another case i.e. of Madhya Pradesh High Court (Gwalior Bench) in ***Prashant Sharma and others Vs. State of Madhya Pradesh and Another [2017 Cri.L.J. 2015]***. In this case, the High Court has held that there has to be some specific overt act on the part the relatives of the husband, who are not his parents, to show their involvement in the crime. The specific allegations are there and, therefore, the proceedings can not be quashed against petitioners.

7. The petition stands dismissed. Rule is discharged.

(SUNIL K. KOTWAL, J.) (T.V.NALAWADE, J.)

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