

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.563 OF 2017

1. Shantaram Bapusaheb Mandlik,
Age 27 years, Occu: Private Service,
R/o Bargaon Nandur (Mandilik Wasti)
Tq. Rahuri, District Ahmednagar,
2. Bapusaheb Matarba Mandlik,
Age 58 years, Occu: Agri.,
R/o As per above.
3. Sau. Gayabai Bapusaheb Mandlik,
Age 55 years, Occu. Agri.,
R/o As per above.
4. Sau. Sheetal Sunil Dhawan,
Age 31 years, Occu: Household,
R/o Dhawan Wasti, Pipeline Road Bhistgaon,
Sawadi, Tq. Ahmednagar, Dist. Ahmednagar.
5. Sau. Yogita Sharad Jarhad,
Age 22 years, Occu: Household,
R/o at present Opposite Surya Lawns,
Beed By Pass Road, Aurangabad. ... **Petitioners**

Versus

1. The State of Maharashtra,
Through Secretary,
Home Department,
Mantralaya, Mumbai-32.
2. Police Inspector,
Police Station, Rahuri,
Tq. & Dist. Ahmednagar,

3. Sau. Prajakta Shantaram Mandlik,
Age 31 years, Occu: Household,
R/o at present C/o Ashabai Ramdas Dhale,
Sonai, Tq. Newasa,
Dist. Ahmednagar. ... **Respondents**

...
Adv. Shubhangi D. More, Advocate for Petitioners
Mr. D.R.Kale, APP for Respondent Nos.1 & 2 – State
Mr. V.M.Maney, Advocate for Respondent No.3
...

**CORAM : S.S.SHINDE AND
MANGESH S. PATIL, JJ.**

DATE : 16th November, 2017

ORAL JUDGMENT : (Per S.S.Shinde J.) :-

Heard. Rule. Rule is made returnable forthwith.
With the consent of both the sides, the matter is heard finally.

2. This petition is filed with following prayer Clause
'B' :-

“B – By issuing any appropriate writ, order or direction in like nature, this Hon’ble High Court may please be quash and set aside the vide Cr.No.I 47/2017 registered at Rahuri Police Station, dated 09.02.2017 for the offences punishable under Section – 498(A), 323, 504, 506 r/w 34 of Indian Penal Code, 1860.”

3. The learned counsel appearing for the petitioners submits that even if the allegations in the First Information Report are taken at its face value and read in its entirety, alleged offences have not been disclosed. There are vague and general allegations without mentioning any specific incident or overtact and date and therefore, keeping in view the judgment of the Hon'ble Supreme Court in case of ***Preeti Gupta and another Vs. State of Jharkhand and another* [(2010) 7 SCC 667]** and ***Geeta Mehrotra and another Vs. State of Uttar Pradesh and another* [(2012) 10 SCC 741]**, FIR deserves to be quashed.

4. On the other hand, learned APP appearing for the State relying upon the investigation papers submits that upon reading the allegations in the FIR in entirety, alleged offences have been disclosed as against all the petitioners. Therefore, petition may be rejected.

5. The learned counsel appearing for Respondent No.2 submits that, the allegations in the FIR *prima-facie*

constitutes the alleged offences. The allegations in the FIR will have to be read as it is and appreciation of said allegations even in summary manner is not permissible when there is a prayer for quashing the FIR. It is submitted that there was ill-treatment, harassment and demand of Rs.20,00,000/- (Rupees Twenty Lacs only) by the petitioners and therefore, the allegations in the FIR needs further investigation.

6. We have given careful consideration to the submissions of the learned counsel appearing for the petitioners, learned APP appearing for the State and learned counsel appearing for Respondent No.2. We have perused pleadings in the petition, grounds taken therein, annexures thereto and in particular allegations in the FIR. So far petitioner Nos.1 to 3 are concerned, they are residing in the matrimonial house and there are allegations of abusing, assaulting and threatening to kill Respondent No.2, against them. Therefore, when the investigation is in progress, we are not inclined to entertain this petition to the extent of petitioner Nos.1 to

3. Hence, their petition stands rejected.

7. So far Petitioner No.4 is concerned, she is residing at Ahmednagar and married sister of Petitioner No.1 Shantaram. Petitioner No.5 is residing at Aurangabad and also married sister of Petitioner No.1 Shantaram. So far their role is concerned, there is casual reference in the FIR that along with Petitioner Nos.1 to 3 they have also demanded Rs.20,00,000/- (Rupees Twenty Lac only). There is no any specific incident or specific allegations against Petitioner Nos.4 and 5. The fact that Petitioner No.4 is residing at Ahmednagar and Petitioner No.5 is residing at Aurangabad is not in dispute.

8. In that view of the matter, keeping in view the exposition of law by the Hon'ble Supreme Court, in the case of *Preeti Gupta and another* (supra) and *Geeta Mehrotra* (supra), we are inclined to allow the petition of Petitioner Nos.4 and 5. The Supreme Court in the case of ***Geeta Mehrotra and another Vs. State of Uttar Pradesh and another [(2012) 10 SCC 741]***, in the facts

of that case held that casual reference to a large number of members of the husband's family without any allegation of active involvement would not justify taking cognizance against them and subjecting them to trial. In the said judgment, there is also reference of the judgment of the Supreme Court in the case of **G.V.Rao Vs. L.H.V. Prasad [(2000) 3 SCC 693]** wherein para 12 it is observed thus :

“12. There has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their 'young' days in chasing their 'cases' in different courts.”

9. Accordingly, FIR No.I-47 of 2017 registered with Rahuri Police Station, for the offences under Sections 498(A), 323, 504, 506 read with 34 of Indian Penal Code stands quashed and set aside qua Petitioner No.4 – Sheetal Sunil Dhawan and No.5 – Yogita Sharad Jarhad.

10. In the result, petition is partly allowed, and stands disposed of accordingly.

11. The observations made while rejecting the petition of Petitioner Nos.1 to 3 are prima-facie in nature and confined to the adjudication of present petition only. The rejection of this petition shall not be construed as an impediment to the Petitioner Nos.1 to 3 to avail of an appropriate remedy, in the event of filing charge-sheet by the Investigating Officer.

(MANGESH S. PATIL, J.)

(S.S.SHINDE, J.)

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vmk/-