

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

Criminal Writ Petition No. 464 of 2007

- 1) Dr. Suryakant Anandrao Deshmukh,
Age 34 years,
Occupation: Service Medical Officer,
R/o Civil Hospital Parbhani,
C/o Shree Orthopaedics Hospital,
Wasmat Road, In front of
Vasantrao Naik Statue Parbhani,
District Parbhani.
- 2) Anandrao Motiram Deshmukh,
Age 72 years,
Occupation: Pensioner,
R/o Prashant Nagar, Ambejogai,
District Beed.
- 3) Prabhawati Anandrao Deshmukh,
Age 65 years,
Occupation: Household,
R/o Prashant Nagar, Ambejogai,
District Beed.
- 4) Ashok Anandrao Deshmukh,
Age 45 years,
Occupation: Service,
R/o At Post Ahmedpur,
District Latur.
- 5) Tanaji Anandrao Deshmukh,
Age 35 years,
Occupation: Service,
R/o Prashant Nagar, Ambejogai,
Taluka Ambejogai, Dist. Beed.
- 6) Chandrakala Jeevanrao Vaidya,
Age 42 years, Occ: Service,
R/o Ghatnandur, Taluka Ambejogai
District Beed.

.. Petitioners.

Versus

- 1) The State of Maharashtra,
Through Jilha Peth Police
Station, Jalgaon.
- 2) Chhaya Suryakant Deshmukh,
Age 38 years,
Occupation: Household,
R/o c/o Machindra Chokha
Nagtilak, Kurwel Road,
In front of New M.S.E.B.
At Post Taluka Mohol,
Taluka Solapur,
District Solapur.

.. Respondents.

Shri. Pramod P. Dhorde, Advocate, for petitioners.

Shri. S.J. Salgare, Additional Public Prosecutor, for
respondent No.1.

Mrs. M.A. Kulkarni, Advocate, for respondent No.2.

**Coram: T.V. NALAWADE &
SUNIL K. KOTWAL, JJ.**

Date : 3 AUGUST 2017

JUDGMENT (By T.V. Nalawade, J.):

- 1) The petition is filed for relief of quashment of
the FIR registered at CR No.203/2006 registered in Zilla
Peth Police Station Jalgaon and also for the quashment of
the proceeding which is filed in the said crime. Both the
sides are heard.

2) Respondent No.2, original complainant, is the wife of petitioner No.1. Petitioner Nos. 2 and 3 are the parents of the petitioner No.1. During pendency of the present proceeding petitioner No.2 died. Petitioner Nos.4 and 5 are brothers of petitioner No.1 and petitioner No.6 is married daughter of petitioner No.2.

3) Marriage of the first informant took place with petitioner No.1 prior to 1999. She was working as Nurse in one hospital where petitioner No.1 was working as Medical Officer. It is contended that it was her inter caste marriage and so the parents and other relatives of petitioner No.1 were not happy with the marriage. It is her contention that due to the circumstance that the first informant was not from the caste of the petitioners, ill treatment was given to her. Allegations are made that the petitioners were asking her to bring money. It is her contention that due to the harassment given to her she started living separate from the petitioners from June 1999 and she was living with her brother. FIR was given on 8-10-2006 and crime is registered for offence under section 498-A, 34 of Indian Penal Code.

4) It is the case of the petitioners that the first informant was already married and this circumstance was concealed from petitioner No.1. It is contended that when the petitioners came to know about this fact, the first informant returned to her parents house. It is contended that only to extract money the first informant has made false allegations. It is contended that petitioner No.1 has filed divorce petition under section 13 of Hindu Marriage Act and only after that the first informant approached police and the FIR was given very late. It is contended that petitioners Nos.2 to 6 were living separate from petitioner No.1 and there was no occasion or opportunity for them to give ill-treatment to the first informant.

5) The submissions made show that it is not disputed that the first informant had started living separate from petitioner No.1 from June 1999. Copy of the Hindu Marriage Petition filed by petitioner No.1 is produced on the record and it shows that divorce proceeding was filed on 13-6-2006. The FIR came to be given on 8-10-2006. The contentions made in the present petition are made in the Hindu Marriage Petition also.

6) There is virtually no explanation with the first informant as to why she did not approach police for about 7 years if she was deserted in the year 1999. There is clear possibility that only after filing of divorce proceeding she filed the report and the intention behind the report is to pressurise the husband and other relatives so that they come to some settlement as per her desire. The circumstance that petitioner Nos.2 to 6 are living separate from petitioner No.1 but they are mentioned as accused in the FIR shows that she is interested only in pressurizing the husband and his relatives.

7) Recently, In the case of **Rajesh Sharma v. State of U.P. reported as 2017 SCC OnLine SC 821** the Apex Court has given directions to prevent misuse of the provision of section 498-A of the Indian Petition Code. Prior to that in the case reported as **2011 (4) Mh.L.J. (Cri) 488 (Bhushan Kumar Meen v. State of Punjab)** the Apex Court had observed that if prima facie case is not made out for offence under section 498-A IPC the FIR and the case itself is liable to be quashed. Similar observations are made in **AIR 2013 SC 181 (Geeta Mehrotra v. State**

of U.P.). It is further laid down that when there are vague allegations the proceeding and the FIR need to be quashed.

8) In the present matter also the contents of the FIR show that very vague allegations are made against all the petitioners. It can be said that in stead of filing written statement in the divorce proceeding she preferred to go to police. As there was no specific incident with her she made vague allegations for registration of crime. In view of these circumstances this Court holds that it will be misuse of provision of section 498A of the IPC and process of law if the proceeding is allowed to continue.

9) In the result, the petition is allowed. The F.I.R. and the subsequent proceedings filed in the said crime are quashed and set aside. Rule made absolute in those terms.

Sd/-
(SUNIL K. KOTWAL, J.)

Sd/-
(T.V. NALAWADE, J.)

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