

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 877 OF 2009.

1. Dattatraya S/o. Vasantao Tambe,
Age: 44 Years, Occu: Business.
2. Vasantao S/o Laxman Tambe,
Age: 79 Years, Occu: Nil.
3. Premabai W/o Vasantao Tambe,
Age: 69 Years, Occu: Household.

Nos. 1 to 3 R/o.240/41, Sangale Galli,
Ahmednagar.

4. Sau. Ashabai W/o Suresh Sali,
Age: 55 Years, Occu: Household,
R/o Ganesh Nagar, Survey No.48/3/1,
Vadgaonsheri, Pune: 411 014.
5. Sadhana W/o Yogesh Thanekar,
Age: 47 Years, Occu: Household.
6. Yogesh S/o Madhukar Thanekar,
Age: 51 Years, Occu: Service.

Nos. 5 and 6 R/o. 4, Shivsundar
Society, Kulgaon, Ambarnath, Thane,
District Thane.

7. Vandana W/o Rajendra Ekhe,
Age: 48 Years, Occu: Household.
8. Rajendra S/o Madhukar Ekhe,
Age: 49 Years, Occu: Service.

Nos. 7 and 8 R/o 24, Taramani Society,
Apana Ghar Road (P), Four Bungalow,
Andheri (W), Mumbai.

....Petitioners.

Versus

1. The State of Maharashtra

Through Dhule City Police Station, Dhule.

2. Hemlata @ Janki W/o. Dattatraya Tambe,
Age: 42 Years, Occu: Household,
R/o. Plot No.23, Bahubali Nagar,
Sakri Road, Dhule.

....Respondents.

Mr. S.S. Jadhavar, Advocate for petitioners.

Mr. S.W. Munde, APP for respondent No.1/State.

Mr. C.R. Deshpande, Advocate for respondent No.2.

**CORAM : T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ.
DATED : JULY 21, 2017.**

JUDGMENT : [PER T.V. NALAWADE, J.]

. The petition is filed for relief of quashment of F.I.R. No. 147/2009 registered in Dhule City Police Station for the offences punishable under sections 498-A, 406, 323, 504, 506 r/w. 34 of Indian Penal Code ('IPC' for short) and sections 3 and 4 of the Dowry Prohibition Act. Both the sides are heard.

2) Petitioner No. 1 is the husband of first informant, respondent No. 2. Their marriage took place on 22.5.2005. The first informant was living separate from the husband from 26.7.2006 and she was living in Dhule.

3) Petitioner Nos. 2 and 3 are the parents of petitioner No. 1. During pendency of the proceeding, petitioner No. 2 – Vasantrao

Tambe, father of petitioner No. 1 died. Petitioner No. 4 is maternal aunt of petitioner No. 1. Petitioner No. 5 is sister of petitioner No. 1 and petitioner No. 6 is husband of petitioner No. 5. Petitioner No. 7 is sister of petitioner No. 1 and petitioner No. 8 is husband of petitioner No. 7.

4) In the F.I.R., allegations are made by respondent No. 2 that proper treatment was given to her only for about 8 to 10 days after the marriage when she went to her husband's house from Ahmednagar. She has made allegations that after that all the accused started asking her to bring money from her parents as the husband wanted to spend money in welding workshop. It is her contention that the accused were insulting her as the demand was not met with. She has made allegations that the husband used to give beating even in the night time.

5) It is the case of first informant that the sisters of husband used to come to Ahmednagar to visit Mauli Mandir and on those occasions, they used to instigate her husband and in-laws to give illtreatment to her. She has given specific incident dated 14.6.2009 in the F.I.R. and she has made allegations that all the eight accused came to her house from Dhule, they insisted that she should sign on divorce papers and they gave alternative that she

should give Rs. One lakh. Allegations are made that on that occasion, they pushed and pulled her father and she was beaten by the husband. She has made allegations that the persons from husband's side snatched and took away her ornaments which was her Stridhan (स्त्रिधन). She gave report to police on 20.7.2009.

6) The learned counsel for petitioners submitted that even when petitioner No. 2, father-in-law of the first informant was aged about 79 years and he was paralysed and he could not have walked or stood on his leg, he is involved in the matter and that shows that the first informant was ready to go to any extent. The learned counsel submitted that the married sisters of husband are falsely implicated and they had no reason to get involved in the matrimonial dispute. The learned counsel submitted that it is admitted fact that the sisters are living at Thane and Mumbai in their matrimonial houses and so, it cannot be believed that they were instigating petitioner No. 1 to give illtreatment to the first informant. The learned counsel submitted that petitioner No. 4, maternal aunt of husband, is residing at Pune and she had also virtually no reason to come to Ahmednager and instigate the husband of first informant to give illtreatment.

7) This Court has carefully gone through the allegations made in the F.I.R. The allegations are omnibus in nature and there are no specific allegations against the relatives of the husband like petitioner Nos. 4 to 8. They are living separate and the record to that effect which include copy of ration card, copies of identity card issued by Election Commission is produced. In the family of husband, there were only his parents.

8) When the specific incident alleged in the F.I.R. took place on 14.6.2009, the F.I.R. came to be given on 20.7.2009, after more than one month. The reasons given in the F.I.R. that she tried to convince the relatives of husband and due to that no F.I.R. was given immediately, does not appear to be probable in nature. She was living separate from the husband for about three years prior to the date of aforesaid specific incident. Her case that they had given option either to give divorce or to give Rs. one lakh, does not appear to be probable atleast as against petitioner Nos. 4 to 8. As there are vague allegations and they are not probable in nature and there are other circumstances, this Court holds that it will not be proper and just to allow the investigation to be made as against petitioner Nos. 4 to 8. That will cause unnecessary harassment to them. There is clear possibility of exaggeration of things and false implication of

them to pressurize the husband.

9) The learned counsel for first informant placed reliance on the observations made by the Apex Court in the case reported as **AIR 1992 SC 604 [State of Haryana and Ors. Vs. Ch. Bhajan Lal and Ors.]**. The observations were made in altogether different context and serious crime was involved in the said matter. Present matter has arisen out of matrimonial dispute and there is clear possibility that first informant has exaggerated the things and allowing the respondents to continue with the proceeding would amount unnecessarily harassment to petitioner Nos. 4 to 8.

10) In the result, the petition of petitioner Nos. 4 to 8 is allowed. The F.I.R. in respect of those petitioners stands quashed and set aside. However, the petition of petitioner Nos. 1 and 3 stands dismissed. The petition of petitioner No. 2 is disposed of as abated as petitioner No.2 died during pendency of the matter.

Rule is made absolute in aforesaid terms.

[SUNIL K. KOTWAL, J.]

[T.V. NALAWADE, J.]

ssc/