

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 192 OF 2014

1) Pradip s/o Laxman Shrungare,
Age 35 years, Occupation Service,
R/o Siddharth Society, Avanti Nagar,
Latur.
**(Dismissed as withdrawn as per Order dated
22-08-2014)**

2) Kewalbai wd/o Laxman Shrungare,
Age 75 years, Occupation Household,

3) Bhagwan s/o Laxman Shrungare,
Age 40 years, Occupation Labour,

4) Bhagyashri w/o Bhagwan Shrungare,
Age 35 years, Occupation Household,

No.2 to 4 are R/o Indervelly, Tq.
Indervelly, Dist. Adilabad (A.P.)

5) Gautam s/o Laxman Shrungare,
Age 49 years, Occupation Service,

6) Jaymala w/o Gautam Shrungare,
Age 45 years, Occupation Household,

No.5 and 6 are R/o Chimane, Tq. Aajara
Dist. Kolhapur.

7) Bharatbai w/o Sangpal Bhosale,
Age 52 years, Occupation Household,

8) Sangpal s/o Sopanrao Bhosale,
Age 56 years, Occupation Service,

9) Vishal s/o Sangpal Bhosale,
Age 26 years, Occupation Household,

- 10) Karuna Nitin Kamble,
Age 33 years, Occupation Household,

No.7 to 10 are R/o Dhalegaon Tq.
Ahmedpur, Dist. Latur.

...Petitioners

Versus

- 1) The State of Maharashtra
Through Gandhi Chowk Police Station,
Latur.
- 2) Sow. Ashwini w/o Pradip Shrungare,
Age 25 years, Occupation Household,
At Present C/o. Sudhakar Narayan
Gaikwad, Girwalkar Nagar, Barshi Road,
Latur.

...Respondents

Mr. S. S. Panale, Advocate for petitioners.

Mr. R. V. Dasalkar, Addl. Public Prosecutor, for respondent
No.1 / State.

Mr. R. D. Biradar, Advocate for respondent No.2.

**CORAM : T. V. NALAWADE &
SMT.VIBHA KANKANWADI. JJ.**

DATE : 26-10-2018.

ORAL JUDGMENT : (Per SMT. VIBHA KANKANWADI, J.)

1. Present petition has been filed by original accused persons invoking the powers of this Court under Section 226 and 227 of Constitution of India as well as inherent powers of this Court under Section 482 of the Code of Criminal Procedure in order to quash the Regular Criminal Case No. 54 of 2014 pending before the Judicial Magistrate First Class, Latur (Court No.08) arising out of First Information Report vide Crime No. 242 of 2013, registered with

Gandhi Chowk Police Station, Latur, for the offences punishable under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.

2. Respondent No.2 got married to petitioner No.1 on 23-05-2007. Petitioner No.1 is the husband of respondent No.2, petitioners No.2 is the mother, petitioner No. 3 and 5 are brothers and petitioner No. 7 is the sister of petitioner No.1. Petitioner No.4 is wife of petitioner No.3. Petitioner No. 6 is the wife of petitioner No. 5. Petitioner No. 8 is the husband of petitioner No. 7 and petitioner No. 9 and 10 are the son and daughter of petitioner No. 7 and 8.

3. Respondent No.2 – informant has contended that, she started residing with husband and his mother after the marriage. She was treated properly for about 1 year. Thereafter, her husband and mother-in-law started asking her to bring amount of Rs.5 lakhs for purchase of plot and construction of house thereon. She was kept starved, abused and assaulted for the fulfillment of said demand. She also came to know that her husband is having illicit relations with his niece, who was residing in their neighbourhood. When she asked both of them about the same, they told that they are having affair since prior to her marriage and if she discloses it to anybody then she would be killed. Petitioner No. 3 to 10 used to visit the matrimonial home of respondent No. 2 and used to instigate her

husband by saying that her father is having good financial capacity. All the petitioners had gathered on 30-03-2012 and after discussion, she was driven out of the house at 11.00 p. m., by saying as to why she is not bringing amount from her parents. Therefore, she has lodged the report.

4. The petitioners have contended that, they are residing at different places. Petitioner No. 1 was alone residing with respondent No. 2 as she was not inclined to stay with his mother. Respondent No. 2 was greedy and wanted to live in high standards. He could not afford it. She had left his company voluntarily. He had made efforts to bring her back, but she did not come. He had issued notice for restitution of conjugal rights through Advocate on 13-12-2013. In stead of returning back, she lodged FIR. There is delay in lodging FIR. Said FIR is nothing but a counter blast to the notice issued by petitioner No.1. It is a false and concocted story. They are blessed with a daughter. Details of the events have not been given and they have been kept as vague as possible. Therefore, they have prayed for quashment of the proceeding.

5. Heard learned Advocate Mr. S. S. Panale appearing on behalf of petitioners, learned Addl. Public Prosecutor Mr. R. V. Dasalkar and learned Advocate Mr. R. D. Biradar, appearing on behalf of respondent No.2.

6. The petition was already withdrawn as against petitioner No. 1. The petition was already withdrawn as against petitioner No. 1. Therefore, petition was considered only for the allegations against the petitioners No. 2 to 10. While submitting the arguments, learned Advocate for petitioner produced copy of the judgment in R. C. C. No. 54 of 2014. It was based on the same FIR. The trial was conducted against husband and he was acquitted from all the charges on 09-11-2017 by Judicial Magistrate First Class, Latur. Now, present petitioners have prayed for quashment of the said proceedings against them. It is to be noted that when main allegations in the FIR were against husband and he has been acquitted on merits, then her allegations against relatives of husband do not hold much water. Perusal of FIR would show that no specific role has been attributed against them in respect of offence under Section 498-A of the Indian Penal Code. Said FIR would show that all of them had made the demand in chorus which is not possible and mainly it is stated that they used to instigate husband. Husband himself is now acquitted. Admittedly petitioner No. 3 to 10 are residing at different place, than the place of residence of respondent No. 2 and her husband. So, it appears that, as a routine all the relatives of the husband have been roped. It would be unjust to ask them (taking into consideration the fact of acquittal of husband) to face the trial. Under such circumstance relief is required

to be granted to the petitioners No. 2 to 10 by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- 1) Petition of petitioners No. 2 to 10 is hereby allowed.
- 2) Relief is granted in terms of prayer clause "B".
- 3) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.