

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

Criminal Writ Petition No. 0255 of 2015

District : Ahmednagar

1. Nilkanth s/o. Apparao Ghaytadak,
Age : 41 years,
Occupation : Service/Police Naik,
R/o. Presently working at
Superintendent of Police Office,
Thane Gramin, Near Court Naka,
Collector Office, Thane,
Taluka & Dist. Thane.
2. Apparao s/. Tukaram Ghaytadak,
Age : 80 years,
Occupation : Nil,
R/o. House No. C-13,
Yashwant Nagar, Govindpura,
Behind Bajrang Mandir,
Ahmednagar,
Taluka & Dist. Ahmednagar.
3. Vimalbai w/o. Apparao Ghaytadak,
Age : 73 years,
Occupation : Nil,
R/o. House No. C-13,
Yashwant Nagar,
Govindpura,
Behind Bajrang Mandir,
Ahmednagar,
Taluka & Dist. Ahmednagar.
4. Asha d/o. Apparao Ghaytadak,
Age : 43 years,
Occupation : Service,
R/o. C/o.Satikanth s/o. Apparao
Ghaytadak,
Gaurav Apartment, Pawar Nagar,
Galli No.2, Old Sangvi, Pune,
Dist. Pune. Presently residing at
House No. C-13, Yashwant Nagar,
Govindpura, Behind Bajrang
Mandir, Ahmednagar,
Taluka & Dist. Ahmednagar.

5. Sau. Maya w/o. Rajendra Kuchekar,
Age : 45 years,
Occupation : Household,
R/o. Ramnagar Police Colony,
Jalna, Taluka & Dist. Jalna.

6. Sau. Sheela w/o. Babanrao
Khandagale,
Age : 47 years,
Occupation : Household,
R/o. Ausar Karmala Saras
Nagar, Ahmednagar,
Taluka & Dist. Ahmednagar.

7. Babanrao s/o. Ratanrao
Khandagale,
Age : 54 years,
Occupation : Service,
R/o. Ausar Karmala,
Saras Nagar, Ahmednagar,
Taluka & Dist. Ahmednagar.

.. Petitioners.

versus

1. The State of Maharashtra,
Through Police Inspector,
Tofkhana Police Station,
Ahmednagar,
Dist. Ahmednagar.

2. Sau. Swati w/o. Nilkanth
Ghaytadak,
Age : 39 years,
Occupation : Household,
R/o. C/o. Rajaram Gangaram
Ghodke,
Siddharthnagar Shrigonda,
Dist. Ahmednagar.

.. Respondents.

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Mr. S.V. Mundhe, Advocate, for the petitioners.

*Mr. S.J. Salgare, Additional Public Prosecutor, for
respondent no.01.*

*Mr. Pratap B. Vikhe, Advocate (appointed), for
respondent no.02.*

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

DATE : 30TH OCTOBER 2018

JUDGMENT *[Per Smt. Vibha Kankanwadi, J.] :*

01. Present petition has been filed by the original accused persons by invoking powers of this Court under Article 226 and 227 of the Constitution of India as well as inherent powers under Section 482 of the Code of Criminal Procedure, to quash and set aside charge-sheet bearing RTC (I) No. 193 of 2014 filed by Tofkhana Police Station, Ahmednagar, before Judicial Magistrate (First Class), Ahmednagar, for offences punishable under Section 498A, 323, 504, 506 r/w. 34 of the Indian Penal Code.

02. Respondent No.2 got married to petitioner No.1 on 23-05-2004. Petitioner No.1 is the husband of respondent No.2, petitioners No.2 and 3 are the parents of petitioner No.1, and petitioners No.4 is unmarried sister of petitioner No.1. Petitioner No.5 and 6 are the married sisters of petitioner No.1. Petitioner No.7 is the husband of petitioner No.6.

03. Respondent No.2 – informant has contended that, her father had household articles at the time of marriage. After marriage she went to Govindpura, Ahmednagar at her matrimonial house to cohabit with

her husband. Her husband is serving in Police Department and his place of posting is with Thane Gramin. Her brother-in-law was residing at Pune in connection with his service and petitioners No. 5 and 6 were residing at their matrimonial homes. Informant was treated properly for about 4 months after the marriage. Thereafter all the accused persons started harassing her on trifle grounds. Other accused used to instigate her husband. In the meantime, she delivered daughter. She went to reside at Nasik, where her husband was serving with their daughter. They resided there for 6 months. Her husband harassed her and therefore, she went to her father's house. She was taken back by her husband after giving guarantee to behave properly with her. petitioners No. 5 to 7 used to harass her when they used to come to her house. She had filed application for maintenance on two occasions against her husband. On both the occasions, she was taken back by giving promises. petitioners No. 5 to 7 used to give false information to her husband against her in order to instigate him. Her husband used to beat her without making any inquiry. She was then driven out of the house by her husband on 06-02-2014 by saying that whatever his relatives are saying is true. Since then she is residing at her parental house with her three children. Therefore, she has lodged the report.

04. The petitioners have contended that, there is delay in lodging FIR. They have been falsely

implicated. Petitioners No. 2 to 7 are residing separately and never interfered with the dispute if any between petitioner No. 1 and informant. Informant had resided with petitioners No. 2 and 3 only for 4 months initially. Thereafter she never resided for longer days. The statements of the witnesses are stereo typed. The allegations are vague. Therefore, they have prayed for quashment of the proceedings.

05. Heard learned Advocate Mr. S. V. Mundhe appearing on behalf of petitioners, learned Addl. Public Prosecutor Mr. S. J. Salgare and learned Advocate Mr. P. B. Vikhe, appointed for respondent No.2. The petition was already withdrawn in respect of petitioner No. 1 vide order dt. 24-08-2015. When it was pointed out to the learned advocate for the petitioners that, this Court is not inclined to grant any relief to petitioners No. 2 to 4, he prayed for withdrawal of the application as against them.

06. The application was considered only for the allegations against the married sister-in-law petitioners No.5, 6, and husband of petitioner No.6. Admittedly, petitioners No. 5 and 6 were married prior to the marriage between petitioner No. 1 and respondent No. 2. They are residing at their matrimonial house, since the date of their marriage. Their causal visits to the house of petitioner No. 2 and 3 can not be imagined as purposeful in order to harass the informant. General allegations have been

levelled against them that they used to instigate petitioner No. 1 by saying bad things about the informant. No specific role has been attributed against them in respect of offence under Section 498A of the Indian Penal Code. The allegation of demand of amount for taking house is against petitioner No. 1 only. There are no allegations against other petitioners regarding demand of amount. It appears that there were litigations between petitioner No. 1 and the informant in the past and there were compromises. No statement is made that at any point of time, petitioners No. 5 to 7 played any role in the said compromise. The statements of witnesses are also on the same lines. There appears no prima facie case against petitioners No. 5 to 7 attracting offence punishable under Section 498A of the Indian Penal Code. It appears that, as a routine all the relatives of the husband have been roped. It would be futile exercise to ask petitioners No. 5 to 7 to face the trial with such kind of evidence. Under such circumstance, relief is required to be granted to the petitioners No.5 to 7 by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure.

07. Hence, the following order.

(a) The petition to the extent of petitioner no.01 Nilkanth Ghaytadak is already dismissed as withdrawn by order passed on 24.08.2015.

(b) The petition to the extent of petitioners no.02, 03 and 04, namely, Apparao Ghaytadak, Vimalbai Ghaytadak and Asha Ghaytadak, respectively, is disposed of as withdrawn.

(c) The petition to the extent of petitioners no.05, 06 and 07, namely, Sau. Maya Kuchekar, Sau. Sheela Khandagale and Babanrao Khandagale, respectively, is allowed. Relief is granted to them in terms of prayer clause "C".

(d) Rule made absolute in the above terms.

08. Learned Advocate Mr. P.B. Vikhe was appointed to represent the cause of respondent no.02. His fees is quantified at Rs. 3,000/- [Rupees three thousand] which shall be payable to him by the High Court Legal Services Sub-Committee, Aurangabad.

(Smt. Vibha Kankanwadi)
JUDGE

(T.V. Nalawade)
JUDGE

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