

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 411 OF 2015

- 1) Dushyant s/o Harishchandra Mate,
Age 35 years, Occupation Nil,
- 2) Harishchandra s/o Krishnaji Mate,
Age 64 years, Occupation Pensioner and
Business,

Both R/o Walunj Tq. Nagar Dist.
Ahmednagar.

**(Petition is dismissed against petitioners No.1
and 2 as not pressed as per order dated 12-
06-2015)**

- 3) Nakul s/o Harishchandra Mate,
Age 30 years, Occupation Service,
R/o 711 Cosmopolitan Drive
NE. Unst 233, Atlanta Ga 30324 USA. ...Petitioners

Versus

- 1) The State of Maharashtra
Through Police Station Officer
Kotwali Police Station Dist.
Ahmednagar.
- 2) Sonali Dushant Mate,
Age 28 years, Occupation Household,
R/o Dr. Colony, Ahmednagar
At Present R/o Kotwade Tq.
Dist. Ratnagiri. ...Respondents

Mr. N. V. Gaware, Advocate for petitioners.
Ms. P. V. Diggikar, Addl. Public Prosecutor, for respondent No.1
/ State.
Mr. N. B. Narwade, 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 Art. 226 and 227 of Constitution of India and Section 482 of the Code of Criminal Procedure in order to quash the Charge-sheet vide No. 190 of 2014, registered with learned Judicial Magistrate First Class, Court No. 3, Ahmednagar arising out of First Information Report bearing No. 154 of 2014 for the offences punishable under Section 498-A, 406, 323, 504, 506 read with 34 of the Indian Penal Code.

2. Respondent No.2 got married to petitioner No.1 on 27-04-2013 at Nakshatra Lawns, Ahmednagar. Petitioner No.1 is the husband of respondent No.2, petitioners No.2 is the father and petitioner No. 3 is the brother of petitioner No.1.

3. Respondent No.2 – informant has contended that, she came to reside with her husband at Ahmednagar after the time of marriage. Her husband was residing with his father. Her husband is an engineer and had worked in United States of America for about 5 years. He has a flat at Mumbai. They both went to that flat after one

month of marriage. She was treated properly for about initial 15 days. Thereafter petitioner No. 2 started saying that her father has not given gold ornaments and household articles. She was assaulted by kicks and blows on that count. Her husband was also assaulting her on that count. He was trying to declare her mentally unsound. She was disclosing harassment to her mother, sister, etc on phone. There were meeting held for advising petitioner No. 1 and 2. Later on it was revealed to her that her husband had already performed marriage with another lady from America. She has taken photographs of the emails. Her husband was also having illicit relations with another girl. She came to Ahmednagar around 23-04-2014 to attend the marriage ceremony of cousin of petitioner No. 1. Petitioner No. 3 had also come from abroad. All the petitioners conspired and started saying that phone bills of petitioner No. 1 and 3 has increased, her father has not given gold ornaments and only few household articles are given in marriage. She was assaulted and abused. She had then called her father, brother-in-law, mother to Ahmednagar. They persuaded petitioners. Except her husband other petitioners treated her properly for two days, but then again they started harassing her. She then went to stay with her aunt due to the harassment. It was then decided by her family that she will not be sent back for cohabitation. In the mean time she had gone for tracking with petitioner No. 1 and 2 in Himalaya after persuasion by

elders. However, after returning to Mumbai, petitioners started harassing her. They started demanding amount of Rs. 2 lakhs. It was told that if she brings the said amount, then only she would be taken for cohabitation and would be taken to United States of America. She had informed the said fact to her sister and brother-in-law, who reside at Pune. Petitioner No. 3 was to return to abroad and therefore she went to Mumbai on 15-06-2014. on that day, petitioner No. 1 and 2 had abused her. Petitioner No. 3 went back. She came to know that her husband has taken Visa. When she made inquiry, petitioner No. 1 and 2 abused her. They both went to Ahmednagar and called her there. They both made demand of Rs.2 lakhs and harassed her mentally and physically. Therefore, she has lodged the report.

4. The petitioners have contended that, there is delay in lodging FIR. They have been falsely implicated. They are all highly qualified persons. The allegations are baseless and malicious. Petitioner No. 1 was taking steps to take informant to USA, but unfortunately their relationship took negative turn. Petitioner No. 3 was not residing with them. Therefore, they have prayed for quashment of the proceeding.

5. Heard learned Advocate Mr. N. V. Gaware appearing on behalf of petitioners, learned Addl. Public Prosecutor Ms. P. V. Diggikar

and learned Advocate Mr. S. B. Narwade, appearing on behalf of respondent No.2. It will not be out of place to mention here that the petition was already dismissed as against petitioners No.1 and 2 vide order dt. 12-06-2015.

6. The petition was considered only for the allegations against the brother-in-law /petitioner No.3. No specific role has been attributed against him in respect of offence under Section 498-A of the Indian Penal Code. Only omnibus statement is made that when he had come to India, to attend the marriage of his cousin, he had also demanded amount and abused informant along with petitioners No.1 and 2. It is to be noted that petitioner No.3 is admittedly residing abroad. At no point earlier, he had residing with petitioners and informant. How he had knowledge about regular affairs in the married life of petitioner No.1 and informant is a question. If at all there would have been a demand it would have been mainly by the husband and the father. Petitioner No.3 has produced on record documents showing that he is residing at Atlanta, USA. So, it appears that, as a routine, the relative of the husband has been roped. The statements of the witnesses are also on the same line. Therefore, it would be futile exercise to ask petitioner No.3 to face the trial. Case is made out to exercise powers of this Court to quash the proceedings. Hence, following order.

ORDER

- 1) Petition of petitioner No. 3 is hereby allowed.
- 2) Relief is granted in terms of prayer clause "B" to the petitioner No. 3 only.
- 3) Petition to the extent of petitioners No.1 and 2 is already dismissed.
- 4) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.