

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

CRIMINAL WRIT PETITION NO. 634 OF 2018

1. Rajendra S/o Vishwanath Darade,
Age: 35 years, Occu: Service,
2. Vishwanath S/o Vithoba Darade,
Age: 62 years, Occu: Reti.

R No.1 to 2 R/o. Nath Renuka
Pipeline road, Santkisan Giri
Nagar Bhistbosh Naka Ahmednagar.

3. Macchindra s/o Vishwanath Darade,
Age: 37 years, Occu: Service,
R/o. Sheikha Latifa Bin Hamdan Building,
First Floor, Al Fahedi Street, Bur Dubai-UAE
Pox 2375.
4. Jaishree D/o Vishwanath Darade,
Age: 29 years, Occu: Household,
R/o. Kolhar (Kolhubaiche)
Tq. Pathardi, Dist, Ahmednagar.

... **PETITIONERS**
(Orig. Accused)

VERSUS

1. The State of Maharashtra,
Through Secretary,
Home Department,
Mantralaya Mumbai-32.
2. The Superintendent of Police,
Aurangabad, Dist. Aurangabad.
3. The Police Inspector,
Kranti Chowk, Police Station,
Aurangabad, Tq. & Dist. Aurangabad

4. Rupali W/o Rajendra Darade,
Age: 33 years, Occu: Household,
R/o.C/o. Dnyonoba S/o. Eknath Ghute,
Varad Muthiyaan Apartment,
F-Building Flt No.10, Samarthnagar,
Aurangabad.

... **RESPONDENTS**

...

Ms Madhaveshwari D. Thube-Mhase, Advocate for Applicants.

Mr. M. M. Nerlikar, APP for Respondent Nos.1 to 3.

Mr. B. R. Jaybhay, Advocate for Respondent No.4.

...

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

DATE : 04th September, 2018.

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

. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2 The proceeding is filed under Article 226 of the Constitution of India and Section 482 of the Code of Criminal Procedure for relief of quashing of FIR No.1127 of 2016, registered with Kranti Chowk Police Station, District Aurangabad, for the offences punishable under Sections 498-A, 323 and 504 read with 34 of the Indian Penal Code.

3 The crime is registered on the basis of report given by Respondent No.4. Petitioner No.1 is the husband of Respondent No.4. Petitioner No.2 is the father of Petitioner No.1, Petitioner No.3 is the brother of Petitioner No.1 and Petitioner No.4 is the married sister of Petitioner No.1.

4 Marriage between Petitioner No.1 and Respondent No.4 took place on 24th June, 2012 and there was cohabitation till 28th March, 2013. FIR was given on 26th October, 2016. The submissions made and record show that Petitioner No.1 is working in Gujarat and Respondent No.4 cohabited with Petitioner No.1 at Surat in the initial period of her married life. At that time, Petitioner No.4 was married and Petitioner No.3, brother of husband was living in other country. It is contended that for some time, Respondent No.4 lived in the house at the native place of the husband like Ahmednagar.

5 The submissions made and record show that a daughter was born out of this wedlock on 18th October, 2013. After the birth of the daughter, the first informant did not return to the matrimonial house. She had taken the dispute to the Women Redressal Cell

where the matter was compromised atleast on two occasions and she had submitted that she wanted to return to the matrimonial house. On the last occasion, she gave in writing on 19th October, 2015 that she wanted to complete her education and so she had no desire to return to the matrimonial house. Due to such submission, no further steps were taken and the matter was closed at the Grievance Redressal Cell. She requested the Grievance Redressal Cell to reopen the matter and refer the matter to Police on 26th October, 2016 and then the crime came to be registered. In the FIR, allegations made against the relatives of the husband are very vague. Allegations are mainly against the husband and she has gone to the extent in contending that the husband is suffering from some mental disorder. This Court has gone through the correspondence between the parties like reply given to the notice of the husband by wife through Advocate and in that notice, no specific allegations were made as against the relatives of the husband. The record is produced in support of the contentions of Petitioner No.2 to 4 that they were living separate from the husband of the first informant. Copy of marriage invitation card is produced in respect of Petitioner No.4 and the record like appointment order, copy of passport is produced in respect of Petitioner No.3. Record is

produced in respect of employment and retirement of the father of husband showing that he retired on 31st May, 2017. One certificate is produced to show that on 1st March, 2013, he was on full time duty at the place of work as some allegations are made in respect of 1st March, 2013. In view of these circumstances, this Court holds that relief needs to be granted to Petitioner Nos.2 to 4. The learned counsel for Petitioner No.1 submitted, on instructions, that he wants to withdraw the proceeding filed by Petitioner No.1, husband, as this Court is not inclined to grant relief to Petitioner No.1. In the result, the following order is passed:

ORDER

- I. The petition of Petitioner Nos.2 to 4 is allowed.
- II. Relief is granted to Petitioner Nos.2 to 4 in terms of prayer clause (B).
- III. The petition of Petitioner No.1 is disposed of as withdrawn.
- IV. Rule is made absolute in those terms.

[SMT. VIBHA KANKANWADI, J.]

[T. V. NALAWADE, J.]