

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 831 OF 2018

- 1) Kailas s/o Anna Jadhav,
Age 58 years, Occupation Agriculture,
- 2) Kadubai w/o Kailas Jadhav,
Age 55 years, Occupation Household and
Agriculture,

Both R/o Pishor Tq. Kannad
Dist. Aurangabad.

- 3) Dr. Sachin s/o Kailas Jadhav,
Age 30 years, Occupation Resident Doctor,
R/o Jaslok Hospital, Mumbai.
- 4) Dr. Mangesh s/o Kailas Jadhav,
Age 24 years, Occupation Student,
R/o Paithan Gate, Aurangabad
Dist. Aurangabad.

... Petitioners

Versus

- 1) The State of Maharashtra
Through Police Station Officer,
Police Station Osmanpura,
Aurangabad Dist. Aurangabad.
- 2) Shweta w/o Vishal Jadhav,
Age 28 years, Occupation Service,
R/o C/o Sudam Bajirao Kadam,
Plot No.4, Shri Samarth Residency,
Bijli Nagar, Osmanpura,
Aurangabad Dist. Aurangabad.

... Respondents

Mr. S. B. Narwade, Advocate for Petitioners.
Ms. D. S. Jape, Addl. Public Prosecutor, for respondent No.1 / State.
Mr. S. B. Kakade, Advocate for respondent No.2.

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

DATE : 04-10-2018.

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

1. Present petition has been filed by original accused persons invoking the inherent powers of this Court under Art. 226 and 227 of Constitution of India and Section 482 of Code of Criminal Procedure in order to quash the First Information Report vide Crime No. 194 of 2017 dt. 17-11-2017, registered with Osmanpura Police Station, at Aurangabad, 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 Vishal Kailas Jadhav on 15-04-2014. petitioner No.1 is father and petitioner No. 2 is the mother the husband of respondent No.2, petitioner No. 3 and 4 are the sons of petitioner No.1 and 2 (Brothers-in-law).

3. Respondent No.2 – informant has contended that, her father had given household articles, gold ornaments worth Rs.12,50,000/- and cash of Rs.7,00,000/- at the time of marriage to husband. She went to Pishor for cohabitation with husband. She was treated properly for one month. One one day around 8.00 p. m., her husband told her that his uncle is in need of money to buy a plot and

therefore, she should tell her parents to give Rs.50,000/- to his uncle. She refused to convey the message. Thereafter she was ill-treated. Her husband was not doing any work in order to earn. In the meantime she was at Pune for taking training of her Bank job. Her husband was with her. Her husband used to to abuse and beat her on trifle ground. He used to take her salary under threat and withdraw the amount by using ATM card. He had taken away her ornaments by listening to the remarks of others. He had asked her to bring amount of Rs.80,000/- to buy laptop. Her father had given Rs.30,000/-. She gave birth to son on 11-02-2016. All the petitioners had come to see the child at her parent's house. They actually did not see son, but demanded Rs.15 lakhs for installing factory. They raised dispute at that time. They had also demanded Rs.35 lakhs for purchasing a new house at Pishor. Therefore, she has lodged the report.

4. The petitioners have contended that, the report is ex-facie false and concocted. It has been lodged just to harass them. Respondent No. 2 was residing separately from them with her husband at Pune. petitioners No. 3 and 4 are the Medical Practitioners. They were out of Pishor for the purpose of their studies at initial days and now petitioner No. 3 is serving with Jaslok hospital, Mumbai. petitioner No. 4 is pursuing studies in B. D. S. and is residing at hostel since 2012 to 2017. Respondent No. 2 got order

of appointed immediately after marriage. She was at Pune for one year for her training. Her husband was employed at Aurangabad, but for the sake of respondent No. 2, he had left the job and went to Pune. They both were staying in rented premises. Respondent No. 2 has not resumed cohabitation with husband after delivery on her own accord. She has got herself transferred to Aurangabad. Her husband is doing service at Chakan, Pune. Therefore, they have been falsely involved. Therefore, they have prayed for quashment of the FIR.

5. Heard learned Advocate Mr. S. B. Narwade appearing on behalf of petitioners, learned Addl. Public Prosecutor Ms. D. S. Jape and learned Advocate Mr. S. B. Kakde, appearing for respondent No.2.

6. Informant got married to Vishal on 15-04-2014. A copy of the letter from ICICI Bank to informant has been produced to show that prior to her marriage i.e. on 02-04-2014, she was selected as Probationary Officer. The letter further says that she would be required to undergo training of 12 months. The training was given at Pune from 16-02-2015. According to informant, she was treated properly for one month only and thereafter, husband had asked her to convey to her father to extend Rs.50,000/- to his uncle. She says that when she refused, he started harassing her. No allegations are made about demand and harassment by any of the petitioners, at

that time. Petitioner No. 3 got married in 2015 and then she says that her husband started comparing wife of petitioner No. 3 with informant. This allegation is also against husband. Copy of the leave and licence agreement would show that informant and husband were residing in Pune since 11-09-2015 in the said rented premises. None of the petitioners were residing with them. Further contentions in the FIR would also show that no specific role has been attributed against the petitioners in respect of offence under Section 498-A of the Indian Penal Code. All the alleged demands prior to her delivery are stated to be made by the husband. In FIR allegations are made that when all the petitioners had gone to see the child, at that time, amount of Rs.15 lakhs for factory and Rs.35 lakhs for purchasing house at Pishor were demanded. Threat was given that if she does not bring the amount, she would be beaten. Important point is that after the alleged incident, informant had not returned to matrimonial home. Therefore, there is no question of physical ill-treatment after the said demand. Those allegations do not attract ingredients of any offence. What ever dispute is there, it is between the husband and wife. Petitioners have not played any role in the same, even if the allegations in the FIR as well as statements of the witnesses are considered as they are. The perusal of the entire FIR would show that all of them had made the demand in chorus which is not possible. Moreover petitioners are admittedly residing separately.

Petitioners No. 3 is Medical Practitioner. He is attached to Jaslok Hospital, Mumbai. petitioner No. 4 is taking education in Medicine at Aurangabad. He is residing in hostel. Petitioner No. 1 and 2 are residing at Pishor. Therefore, it appears that, as a routine all the relatives of the husband have been roped. It would be futile exercise to ask them to face trial with such kind of evidence. Under such circumstance relief is required to be granted to the petitioners by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- 1) Writ Petition is hereby allowed.
- 2) Relief is granted in terms of prayer clause "b" and also in respect of charge-sheet filed, if any, in the crime as against petitioners only.
- 3) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.