

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

Criminal Writ Petition No. 0864 of 2018

District : Beed

1. Mangal Rajaram Magar,
Age : 55 years,
Occupation : Household,
R/o. At Post Magar Wasti,
Faltan Road, Natepute,
Taluka Malshiras,
District Solapur.
2. Arun Rajaram Magar,
Age : 35 years,
Occupation : Agriculture
& Business,
R/o. At Post Magar Wasti,
Faltan Road, Natepute,
Taluka Malshiras,
District Solapur.
3. Janabai w/o. Hanumant Jadhav,
Age : 35 years,
Occupation : Household,
R/o. Londhe Mohite Wadi,
Taluka Malshiras,
District Solapur.
4. Mahadeo s/o. Maroti Kale,
Age : 32 years,
Occupation : Business,
R/o. Manewadi
(Post Lakhewadi),
Taluka Indapur,
Dist. Pune.

.. Petitioners.

versus

1. The State of Maharashtra,
Through Shivajinagar
Police Station, Beed,
Taluka & Dist. Beed.

... Contd.

2. Swati Laxman Magar Patil,
Age : 28 years,
Occupation : Household,
R/o. Laxminagar,
Jalna Road, Beed,
Taluka & Dist. Beed.

Respondents.

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Mr. G.R. Syed, Advocate, for the petitioners.

*Ms. V.S. Choudhari, Additional Public Prosecutor,
for respondent no.01.*

*Mr. Mahendra P. Gandle, Advocate, for
respondent no.02.*

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

DATE : 10TH SEPTEMBER 2018

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

01. At the outset, learned Advocate appearing for the petitioners seeks permission to withdraw the petition to the extent of petitioner nos.01 and 02, namely, Mangal and Arun.

02. Permission granted. The petition stands disposed of as withdrawn to the extent of petitioner nos.01 and 02, namely, Mangal and Arun.

03. Rule. Rule made returnable forthwith. By consent, heard finally.

04. Present petition has been filed by the original accused persons invoking powers of this Court under Articles 226 and 227 of the Constitution of India, for quashing the first information report, bearing Crime No. 187/2017, registered with Shivajinagar Police Station, Beed, and consequential criminal proceedings bearing Regular Criminal Case No. 316 of 2017 filed before Judicial Magistrate (F.C.), Beed, for offences punishable under Sections 420, 498A, 323, 504, 506, 406, read with Section 34 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act.

05. Respondent no.02 got married to one Laxman Rajaram Magar Patil on 07.10.2016 at Kapildhar. Petitioner no.01 is the mother of said Laxman and petitioner no.02 is the brother of Laxman. Petitioner no.03 is the sister of Laxman. Petitioner no.04 is the person who is conducting marriage bureau where name of the informant was registered. Her marriage was settled with Laxman through the marriage bureau conducted by accused no.04. It was informed at the time of settlement of marriage by Laxman, in front of mother, maternal uncle of the informant and others, that he runs two petrol pumps, one at Malshiras and another at Akluj in District Solapur. He had shown them photographs sitting in the cabin of the petrol pump. He also showed the photograph of his mother as well as two storied house. He also

showed 8A extracts of land admeasuring 50 acres. All of them believed in what Laxman was saying and, therefore, the marriage was settled. Her father had recently expired and, therefore, marriage was to be performed within one year and, therefore, it was simply performed on 07.10.2016. After marriage, she went to Natepote for cohabiting with Laxman. She was kept there in the farm house for about four days. Her husband thereafter told that he has a work at Delhi and, therefore, he is in need of amount of Rs. 2,00,000/-. Informant's mother sold her gold bangles with a goldsmith and credited amount of Rs. 2,00,000/- in the account of Laxman. Informant's mother had also given gold chain, ring and cash of Rs. 2,50,000/- to Laxman. Informant's mother had given furniture in the marriage of the informant worth Rs. 1,07,000/- and other articles. Laxman had withdrawn amount of Rs. 60,000/- from the account of the informant by using her card in ATM. All the accused persons had the knowledge about the same and they had reiterated about the financial things which were told by Laxman. The marriage was performed by defrauding the informant. The informant resided for about four months at Natepute, Taluka Malshiras, District Solapur. She came to know that her husband had illicit relations with one Savita. When she asked about the same to her husband, her husband told that she has become mad and, therefore, she was put before a beard Maharaj. She ran away from that place

and went to her mother's house. Her husband came to Beed and gave threat that she should not disclose the fact to anybody. After some time, when she contacted him to take her back, at that time, he told that he would take her back whenever he would feel it necessary. She, therefore, realized that she has been cheated and when she demanded amount given by her mother, it was told to her that who has given it. Therefore, the informant lodged the said report.

06. The petitioners are contending that there was no representation made by them to the informant. Petitioner no.03 is not in a domestic relation with respondent no.02. The proceedings are vexatious. The information and the statement of the witnesses are imaginary. In fact, respondent no.02 was not interested in cohabiting with her husband and, therefore, they have prayed for quashing the FIR as well as proceedings.

07. The application has been objected by both the respondents on the ground that there is ample evidence against all the accused persons.

08. Heard learned Advocate Mr. G.R. Syed for the petitioners. Heard learned Additional Public Prosecutor Ms. V.S. Choudhari for respondent no.01. So also, heard learned Advocate Mr. M.P. Gandle for respondent no.02. All of them have argued in support

of their respective contentions.

09. At the outset, we would like to say that Laxman is not before us in this proceedings. Therefore, it is necessary to see what role is attributed to each of the petitioner. It can be seen that petitioner nos.01 and 02 are residing with Laxman and, therefore, it would have been natural course that they would have taken part in the settlement of marriage. The FIR, supplementary statement of the informant and statements of witnesses would clearly show that what representations were made from the side of the bridegroom and under which circumstance the marriage was settled. It was represented that Laxman is from a wealthy family. Therefore, definitely case is not made out for quashing the FIR against petitioner nos.01 and 02.

10. Petitioner no.03 is the married sister of Laxman. FIR as well as statements of witnesses would show that she was not present when the marriage was settled. Definitely, she would have been present at the time of marriage. However, only on the basis of that presence, it cannot be stated that she has any role to play. She is the resident of Londhe Mohite Wadi, Taluka Malshiras, District Solapur. As regards activities after the marriage is concerned, also, no role is attributed to her nor it is stated that she

has received any article or amount from the alleged offerings. It would be abuse of process of law to ask her to face the trial.

11. Petitioner no.04 is the person who runs the marriage bureau. He cannot be said to have taken part in any of the demands. No doubt, it would have been appropriate for him to collect the correct information of the persons who register their names with him and then, when he is suggesting the proposal to the other side, he should give correct information. But for that purpose, it cannot be stated that he has committed any offence, that too, with *mens rea*. Therefore, taking into consideration the role attributed / not attributed to petitioner nos.03 and 04, case is made out to quash the FIR as well as proceedings against them.

12. Hence, the following order :-

(a) The criminal writ petition is partly allowed.

(b) The first information report, bearing Crime No. 187/2017, registered with Shivajinagar Police Station, Beed, and consequential criminal proceedings bearing Regular Criminal Case No. 316 of 2017 filed before Judicial Magistrate (F.C.), Beed, for offences punishable under Sections 420, 498A, 323, 504, 506, 406, read with Section 34 of the Indian Penal Code

and Section 4 of the Dowry Prohibition Act, to the extent of petitioner nos.03 and 04 herein (original accused nos.04 and 05), namely, Janabai and Mahadeo, respectively, are hereby quashed and set aside.

(c) As aforesaid, the petition to the extent of petitioner nos.01 and 02 (original accused nos.02 and 03), namely, Mangal and Arun, stands disposed of as withdrawn.

(d) Rule made absolute in the above terms.

(Smt. Vibha Kankanwadi)
JUDGE

(T.V. Nalawade)
JUDGE

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