

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1117 OF 2018

- 1) Madhukar s/o Raghunath Kendre,
Age 74 years, Occupation Pensioner,
R/o Juna Mondha, Housing Society,
Ambajogai Dist. Beed.
- 2) Sau Indumati w/o Madhukar Kendre,
Age 69 years, Occupation Household,
R/o as above.
- 3) Vijay s/o Madhukar Kendre,
Age 41 years, Occupation Service,
R/o Sarda Nagar, Pokhari Road,
Jogaiwadi, Ambajogai Dist. Beed.
- 4) Sau Manisha w/o Panjabrao Ghuge,
Age 45 years, Occupation Household,
R/o Near Gajanan Maharaj Mandir,
IVDP Colony, Washim Dist. Washim.
- 5) Anurag s/o Punjabrao Ghuge,
Age 22 years, Occupation Education,
R/o as above.
At Present Residing At Old Rajender Nagar,
New Delhi.
- 6) Sau Manjusha Nitin Lahane,
Age 43 years, Occuaption Household,
R/o Next to Prrakruti Apartment,
Bravoria Flat No. C-102, Sy. No. 15/7 B,
Balewadi, Pune Tq. Dist. Pune. ...petitioners

Versus

- 1) The State of Maharashtra
Through Police Inspector,
Bhagyanagar Police Station,
Nanded Dist. Nanded.

- 2) Sau Vaishali w/o Gnaesh Kendre,
Age 31 years, Occupation household,
R/o C/o Shivaji Gutte,
Swami Vivekanand Nagar, Bhavswar
Chowk, Taroda Naka, Nanded. ...Respondents

Mr. P. N. Nagargoje, Advocate for petitioners.
Mr. M. M. Nerlikar, Addl. Public Prosecutor, for respondent
No.1 / State.
Mr. S. S. Gangakhedkar, Advocate for respondent No.2.

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

DATE : 19-10-2018.

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

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

2. Present petition has been filed by original accused persons invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure in order to quash the First Information Report vide Crime No. 0227 of 2018, registered with Bhagyanagar Police Station, Nanded, for the offences punishable under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.

3. Respondent No.2 got married to petitioner No.1 on 19-12-2008. petitioner No.1 is the father, petitioner No. 2 is the mother, petitioner No. 3 is the brother and petitioner No. 4 and 7 are the sisters of husband of respondent No.2. petitioner No. 5 is the

husband of petitioner No. 4 and petitioner No. 6 is the son of petitioner No. 4 and 5.

4. Respondent No.2 – informant has contended that, her father had given amount of Rs.1,50,000/-to the husband of respondent No. 2 as per his demand to have a house in Pune after marriage to informant. Her elder sister had also given amount of Rs.3 lakhs to him so that the marital relations should be smooth. However after some days, her husband developed illicit relations with a lady. Said lady also started harassing respondent No. 2 by abusing her in filthy language. All the family members of husband of respondent No. 2 had driven her out of the house and then her husband and his beloved started residing as husband and wife. Respondent No. 2 has daughter aged 8 years and son aged 5 years from her husband. All the petitioners were harassing her and demanding money from her business to be started by husband. After she was driven out of the house, respondent No. 2 went to Nanded with her children. Her husband and his elder brother went to the house of father of respondent No. 2 on 02-04-2018 and abused her. He told her that if she does not give her money, she would be killed. Therefore, she has lodged the report.

5. The petitioners have contended that, the FIR is false and frivolous. Respondent No. 1 is the daughter of real cousin sister of

petitioner No. 1. After the marriage between respondent No. 2 and Ganesh, they both went to Pune, where Ganesh was serving. They were permanently residing at Pune. petitioner No. 1 is a retired teacher. He and his wife stay at Ambajogai, Dist. Beed. They are also residing separately from petitioner No. 3 and his family, since last 9 years. petitioner No. 3 is a teacher. petitioner No. 4 is serving since 1991. Her initial appointment was in Ahmednagar district. She is then transferred to Washim district. petitioner No. 6 is a student and he has taken education in Washim district and then became Engineer from NIT, Warangal (Telangana State). petitioner No. 7 is serving as software engineer at Pune and resides in her matrimonial home, since her marriage. None of them has committed any offence. All allegations are against Ganesh. Details of the events have not been given and they have been kept as vague as possible. They have been falsely implicated. Therefore, they have prayed for quashment of the proceeding.

6. Respondent No. 2 has filed affidavit-in-reply. The affidavit-in-reply contains same contentions. Hence, they are not reproduced here.

7. Heard learned Advocate Mr. P. N. Nagargoje appearing on behalf of petitioners, learned Addl. Public Prosecutor Mr. M. M. Nerlikar and learned Advocate Mr. S. S. Gangakhedkar, appearing on

behalf of respondent No.2.

8. Perusal of FIR would show that respondent No. 2 has accepted the fact that after her marriage, she went to stay with her husband. She has not intentionally made it clear that none of the petitioners were residing with her. Major allegations are in respect of husband, who is not a party to this petition. Role attributed to petitioners is required to be seen. No specific role has been attributed against them in respect of offence under Section 498-A of the Indian Penal Code. petitioners have produced on record documents showing that they were residing separately from respondent No. 2 and her husband. The casual visits of the petitioners, if any to the house of respondent No. 2 would not allow us to draw any inference against the petitioners. There are no averments in the FIR that any incident of ill-treatment had taken place at Ambajogai. Another fact to be noted that respondent No. 2 has daughter aged 8 and son aged 5. The span of these long years appears to be noted properly explained. petitioner No. 6 is aged 22 as on today. Respondent No. 2 got married in 2008 i.e. 10 years back. That means petitioner No. 6 was aged 12, when respondent No. 2 got married to Ganesh. First transfer of money by her father is stated to be on 24-05-2017 and the second transfer is on 1-1-2018. That means, till 2017, there was no harassment. So, 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, when main allegations are against husband only. 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) Petition is hereby allowed.
- 2) Relief is granted in terms of prayer clause "C".
- 3) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.