

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1268 OF 2018

- 1] Rajendra Ashok Akolkar,
Age : 32 years, Occu. : Business,
R/o Plot No. 75, Shiv Nagar,
Near Sidheshwar Temple,
Lekha Nagar, Savedi, Ahmednagar,
Dist. Ahmednagar.
- 2] Ashok Annasaheb Akolkar,
Age : 61 years, Occu. : Pensioner,
- 3] Sanjana Ashok Akolkar,
Age : 60 years, Occu. : Household,
- 4] Surendra Ashok Akolkar,
Age : 30 years, Occu. : Agri.,
- 5] Kalyani Surendra Akolkar,
Age : 26 years, Occu. : Agri.,
- 6] Bhausahab Annarao Akolkar,
Age : 69 years, Occu. : Pensioner,
R/o At Post Korde Vasti Road,
Near Shubham Mangal Karyalaya,
Tal. Shevgaon, Dist. Ahmednagar. ...Petitioners

Versus

- 1) The State of Maharashtra
Through Police Station Officer,
Tophkhana Police Station,
Ahmednagar.
- 2) Priya Rajendra Akolkar,
Age : 26 years, Occu. : Self
employed,
R/o Joharwadi, Post Khandgaon,
Tal. Pathardi, Dist. Ahmednagar. ...Respondents

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Mr. N. V. Gaware, Advocate for Petitioners.

Mr. S. J. Salgare, A. P. P. for Respondent No. 1 - State.

Mr. Uttam Telgaonkar, Advocate (appointed) &
Mr. P. R. Nangare, Advocate for Respondent No. 2.

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

DATE : 20-12-2018.

JUDGMENT : (Per Smt. Vibha Kankanwadi, J.)

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

02. Present petition has been filed by the petitioner invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure in order to quash F. I. R. vide Crime No. I-288 of 2018, registered with Tophkhana Police Station, Dist. Ahmednagar, for the offences punishable under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.

03. Respondent No. 2 got married to petitioner No. 1 on 4.5.2012 as per the Hindu rites and custom. Petitioner No. 2 is father-in-law, petitioner No. 3 is mother-in-law,

petitioner No. 4 is brother-in-law, petitioner No. 5 is wife of petitioner No. 5, petitioner No. 6 is cousin father-in-law.

04. Respondent No. 2 – informant has contended that, after the marriage she went to co-habit with her husband at her matrimonial home at Shivnagar Colony, Plot No. 75, Lekha Nagar Road, Tq. & Dist. Ahmednagar and resided alongwith father-in-law & mother-in-law. The petitioners gave her good treatment for about 2 months. Her husband is Civil Engineer and undertakes the works of private constructions. Thereafter, her husband told her that she has not taken education which is required for helping his construction business and which he is earning is not sufficient for their daily routine expenses. Therefore, her husband told her to bring amount of Rs. 1,50,000/- from her father for her education. She told that her father had incurred huge amount in her marriage, therefore, her father is not in a position to give amount. Thereafter, her husband subjected her to cruelty, physically and mentally. She told this fact to her father-in-law and mother-in-law, their relatives and her parents. On the contrary, her in-laws and cousin father-in-law helped her husband and also ill-treated her. Her father gave Rs. 1,50,000/- to her in-laws. Thereafter,

her husband always used to come late at night and used to ill-treat her physically and mentally by saying that her father had less amount of dowry and has not given the dowry amount as per the wish of her husband and in-laws. Thereafter, her husband always asked her to bring amount for the purpose of business from her parents. He gave threat that he will not allow her to co-habit. He used to drive her out of the house. On 19.8.2017 at 11.00 AM her husband, mother-in-law and father-in-law had beaten her and driven her out of the house by asking her to bring amount from her parents for business purpose. She is residing at her parental house since then. Therefore, she lodged the report.

05. The petitioners have contended that, petitioner No. 2 is residing separately at Ahmednagar and others are residing at Shevgaon Taluka. They further contend that petitioner No. 2 and 6 are suffering from various ailments on account of old age. They further contended that the respondent No. 2 initially co-habited properly but subsequently had started raising quarrels on trifle grounds. Her behaviour became bad to worst gradually and their life has become miserable. The petitioner No. 1 and respondent No. 2 were residing separately at Ahmednagar on account of his business. The respondent No. 2 also used

to threaten the petitioner No. 1 of committing suicide. Petitioner No. 1 had even permitted to respondent No. 2 to pursue her studies in Engineering course and she was admitted to Chatrapati Shivaji Maharaj College of Engineering, Nepti. Petitioner No. 1 himself paid the necessary fees of respondent No. 2. Petitioner No. 1 has also taken proper care of her needs and necessity. He was getting sufficient amount from his business. He has invested substantial amount in the name of respondent No. 2 in fixed deposit in Shrinath Multistate Co-operative Society, Ahmednagar. They further contend that the respondent No. 2 has voluntarily deserted the company of the petitioner on 19.8.2017 and had taken away the valuable ornaments, cash and jewellery alongwith her to the tune fixed deposit receipts of Rs. 25 to 30 lacs. The petitioners state that the respondent No. 2 gave birth to female child. The petitioners had made attempts time and again to impress the respondent No. 2 to resume co-habitation, but, in vain. The petitioner No. 1 filed H. M. P. no. 301 of 2018 of Hindu Marriage Act for restitution of conjugal rights. In spite of filing of the aforesaid proceeding the respondent No. 2 failed to resume for co-habitation. In the meantime, respondent No. 2 has approached the women cell, Ahmednagar. There also the

petitioner No. 1 told that he is ready to take respondent No. 2 for co-habitation, but, it was not accepted by her. Subsequently, in order to give counter blast to the proceedings filed by petitioner No. 1, respondent No. 2 on 6.6.2018 had filed the impugned F. I. R. The petitioner No. 1 had submitted representation to the Superintendent of Police, Ahmednagar against respondent No. 2 and her near relatives that the petitioner was threatened by respondent No. 2 of implicating in some false offences. Again on 23.11.2018 petitioner No. 1 has lodged NCR No. 100 of 2011 with Tophkhana Police Station with regard to threat given by her near relative Machindra Dusunge. Respondent No. 2 has left the matrimonial home voluntarily and took away the ornaments and fixed deposits. The Bank belong to the relative of respondent No. 2. Petitioners have further contended that they are falsely implicated in this complaint. Therefore, they prayed for quashment of the F. I. R. No. I-288 of 2018 dated 6.6.2018.

06. Heard learned Advocate Mr. N. V. Gaware for Petitioners, Mr. S. J. Salgare, learned A. P. P. for Respondent No. 1 – State, Mr. Uttam Telgaonkar, learned Advocate (appointed) & Mr. P. R. Nangare, learned Advocate for Respondent No. 2. When it is pointed out to the learned Advocate for the petitioners that this Court is

not inclined to grant any relief to petitioner No. 1 taking into consideration the contentions of the F. I. R., therefore, he prayed for withdrawal of the petition as against the petitioner No. 1.

07. Perusal of FIR would show that petitioner No. 2 has retired from S. T. Department and residing separately at Ahmednagar. Petitioner No. 6 is a retired Head Master residing at Shevgaon Taluka. No specific role has been attributed against the petitioner No. 2 to 6 in respect of offence under Section 498-A of the Indian Penal Code. Further, it can be seen that nothing was demanded by petitioner Nos. 2 to 6 for themselves as per the allegations in the FIR itself. There were also residing separately. Their causal visits to the house of petitioner No. 1 can not be inferred only to commit offence. Therefore, it can not be inferred that petitioner Nos. 2 to 6 were harassing her. So, it appears that they have been falsely implicated. It would be a futile exercise to ask him to face the trial. Under such circumstance, relief is required to be granted to the petitioner No. 2 to 6. The case is made out for invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure and is also within the parameters laid down in **State of Haryana and Ors. V/s Bhajanlal and Ors.**,

[1992 Supplement -1 Supreme Court Cases, 335],.

08. Hence, following order ;

ORDER

(i)The petition of petitioner No. 1 is disposed of as withdrawn.

(ii)The petition of petitioners No. 2 to 6 is allowed.

(iii)Relief is granted to them in terms of prayer clause "B".

(iv)The fees of appointed counsel is quantified at Rs. 3,000/- and it is to be paid through the High Court Legal Services Authority, Sub-Committee at Aurangabad.

(v)The matter is argued by the Counsel appointed by the first informant and the Counsel appointed by this Court.

(vi)Rule made absolute in those terms.

[SMT. VIBHA KANKANWADI]

JUDGE

[T. V. NALWADE]

JUDGE

Dahibhate/-