

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1301 OF 2018

- 1) Sayyad Tanvir Taj Mohammad,
Age 28 years, Occupation Business,
- 2) Taj Mohammad Ahamad Sahab Sayyad,
Age 66 years, Occupation Business,
- 3) Roshan Taj Mohammad Sayyad,
Age 61 years, Occupation Household,
- 4) Rashid Taj Mohammad Sayyad,
Age 26 years, Occupation Business,
- 5) Vasim Taj Mohammad Sayyad,
Age 24 years, Occupation Household,
- 6) Samina Taj Mohammad Sayyad,
Age 22 years, Occupation Household,
- 7) Rizwana Taj Mohammad Sayyad,
Age 31 years, Occupation Household,

All R/o Darga Daira Road, Aman Colony,
Mukund Nagar, Ahmednagar
Tq. Dist. Ahmednagar.
- 8) Rajiya Salim Peer Mohammad,
Age 32 years, occupation Household,
R/o Mamdapur Tq. Rahata
Dist. Ahmednagar.
- 9) Munni Shaikh Ayyub Gulab,
Age 36 years, Occupation Household,
R/o Shendi Tq. Dist. Ahmednagar.
- 10) Ayub Shaikh Ayub Gulab,
Age 39 years, Occupation Household,
R/o Shendi Tq. Dist. Ahmednagar.

- 11) Sayyad Salim Peer Mohammad,
Age 42 years, occupation Business,
R/o Jakkangaon Tq. Dist.Ahmednagar. ...Petitioners

Versus

- 1) The State of Maharashtra.
- 2) Mrs. Nilofar w/o Tanvir Sayyad,
Age 26 years, occupation Household,
R/o. C/o. Khairuddin Shaikh,
Ramgad Tq. Shrirampur
Dist. Ahmednagar. ...Respondents

Mr. N. B. Narwade, Advocate for petitioners.

Mr. R. V. Dasalkar, Addl. Public Prosecutor, for respondent
No.1/ State.

Ms. Zaware Suvarna, Advocate for respondent No.2.

**CORAM : T. V. NALAWADE &
SMT.VIBHA KANKANWADI. JJ.
DATE : 14-12-2018.**

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

1. At the outset, learned Advocate for the petitioners seeks permission to withdraw the petition to the extent of petitioners No.1 and 3, after it was pointed out that this Court is not inclined to grant any relief to them.

2. Permission granted. The petition stands disposed of as withdrawn to the extent of petitioners No.1 and 3.

3. Rule. Rule made returnable forthwith. By consent, heard

finally.

4. Present petition has been filed by original accused persons invoking the inherent powers of this Court under Article 226 and 227 of the Constitution of India in order to quash the proceeding bearing Regular Criminal Case No.180 of 2017, pending before the learned Judicial Magistrate First Class, Court No.1, Shrirampur Dist. Ahmednagar, for the offences punishable under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code, and the order passed therein dated 09-08-2018.

5. Respondent No.2 got married to petitioner No.1 on 05-03-2017 at Ramgad. Petitioner No.1 is the husband of respondent No.2, petitioners No.2 and 3 are the parents of petitioner No.1, petitioners No.4 and 5 are brothers of petitioner No.1, petitioners No.6 to 9 are sisters of petitioner No.1 and petitioners No.10 is husband of petitioner No.9 and petitioner No.11 is husband of petitioner No.8.

6. Respondent No.2 – informant has filed the private proceeding bearing Regular Criminal Case No.180 of 2017, in the Court of learned Judicial Magistrate First Class, Shrirampur Dist. Ahmednagar, for the offences punishable under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code, wherein she has contended that, in her marriage her family members had given Rs.20,000/-, gold

ornaments, clothes, household articles to the petitioners. After marriage she went for cohabitation at the house of petitioners. All petitioners are residing in the same area. Since the marriage, petitioners were asking respondent No.2 that, her father had given less gold in the marriage, had not given fridge. They were demanding the same and for that purpose they started ill-treating her. They used to abuse her, starve her, assault her and drove her out of the house. She lodged report with police but police advised her to file complaint in the Court. Therefore, she filed private complaint. Statement of respondent No.2 has been recorded by the learned Judicial Magistrate First Class, Shrirampur. Order of issuance of process against all the petitioners has been passed by the learned Judicial Magistrate First Class, Shrirampur.

7. The petitioners have contended that, it is a false and concocted story. It is afterthought allegations with only intention to harass them. Details of the events have not been given and they have been kept as vague as possible. No specific role is attributed to petitioners. Respondent No.2 lived with them only for four days. Thereafter, she left the home of petitioners. Petitioner No.2 Taj Mohammad and petitioner No.7 Rizwana are the handicapped persons. Petitioner No.8 Rajiya and petitioner No.9 Munni Shaikh are married sisters of petitioner No.1. Petitioner No.10 Ayub is the husband of Munni Shaikh and petitioner No.11 Sayyad Salim is the

husband of Rajiya Salim. Therefore, they have prayed for quashment of the proceeding.

8. Heard learned Advocate Mr. N. B. Narwade appearing on behalf of petitioners, learned Addl. Public Prosecutor Mr. R. V. Dasalkar and learned Advocate Ms. Suvarna Zaware, appearing on behalf of respondent No.2.

9. The petition was considered only for the allegations against the petitioner No.2 father-in-law and petitioners No.4 and 5 brothers of petitioner No.1, petitioners No.6 to 9 sisters of petitioner No.1, and petitioners No.10 and 11 husbands of petitioner No.9 and 8.

10. No specific role has been attributed against them in the private complaint. The allegations of demand are alleged against husband and mother-in-law. Physical disability certificate of the petitioner No.2 is perused. Said certificate is of the year 2003. It appears from the said certificate that, petitioner No.2's disability is 40 %. Nothing was demanded by petitioners No.4 to 11 for themselves as per the allegations in the FIR itself. It appears that, as a routine all the relatives of the husband have been roped by making vague allegations. Under such circumstance relief is required to be granted to the petitioners No.2, 4 to 11 by invoking the inherent powers of this Court under Article 226, 227 of the Constitution of India. Hence, following order.

ORDER

- 1) Petition of petitioners No.1 and 3 is disposed of as withdrawn.
- 2) Petition of petitioners No.2 and 4 to 11 is allowed.
- 3) Relief is granted to them in terms of prayer Clause "B".
- 4) Rule made absolute in those terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.