

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1326 OF 2018

- 1) Amol s/o Kailash Jadhav,
Age 30 years, Occupation Nil,
- 2) Lilabai w/o Kailash Jadhav,
Age 50 years, Occupation household,
- 3) Kailash s/o Baburao Jadhav,
Age 55 years, Occupation Pensioner,
- 4) Rohini d/o Kailash Jadhav,
Age 23 years, Occupation Education,
- 5) Dr. Bhaskar s/o Baburao Jadhav,
Age 59 years, occupation Service,
- 6) Manisha w/o Bhaskar Jadhav,
Age 56 years, Occupation Household,

Petitioners No.5 and 6 R/o House No.3,
Viraj Estate Colony, In front of Tarakpur
Bus Stop, Ahmednagar.

...Petitioners

Versus

- 1) The State of Maharashtra
Through Police Station Officer
Kadim Jalna Police Station
Dist. Jalna.
- 2) Manjusha w/o Amol Jadhav,
Age 25 years, Occupation Household,
R/o Samarth Nagar, Zilha Parishad
Patimage, Jalna Tq. Dist. Jalna.

...Respondents

Mr. R. S. Kasar, Advocate for petitioners.

Mrs. V. S. Choudhari, Addl. Public Prosecutor, for respondent

No.1 / State.

Ms. Asha Rasal, Advocate for respondent No.2.

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

DATE : 03-12-2018.

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 to 3.

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 The petition stands disposed of as withdrawn to the extent of petitioners No.1 to 3.

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

4. Present petition has been filed by original accused persons invoking the powers under Art. 226 and 227 of Constitution of India and 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. 212 of 2018 dt. 07-08-2018, registered with Kadim-Jalna Police Station, Dist. Jalna, for the offences punishable under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.

5. Respondent No.2 got married to applicant No.1 on 29-01-2012. Applicant No.1 is the husband of respondent No.2, petitioners

No.2 and 3 are the parents, petitioners No.4 is sister, applicant No.5 and 6 are the paternal uncle of applicant No.1.

6. Respondent No.2 – informant has contended that, at the time of marriage her father had given dowry of Rs.1,50,000/-, three tolas of gold and household articles. After marriage she went to her matrimonial house to cohabit with her husband. She was treated properly for about one month. Thereafter, petitioner No. 1 to 4 started harassing her. Applicant No. 5 and 6 used to come there and abuse her. Applicant No. 1 and 2 used to keep her starved for days together. When she was pregnant at the time of her twin daughters, they had not provided proper food to her. When she was pregnant of about 5 months, her mother-in-law insisted that she should get checked up, as they want only son. They forcibly took her to Dawale Hospital, Ahmednagar. Doctor opined that she has twin daughters. On the same day she was then driven out of the house around 11.30 p. m. by applicant No. 1 to 4. She then stayed with applicant No. 6 at night time. Her father and uncle came to take her. She gave birth to the daughters in 7th of pregnancy. Nobody from matrimonial side came to see her and daughters. When her father informed the said fact to applicant No. 5, he told as to why they should come to see female child. Thereafter, her father had left her to matrimonial home. petitioner used to say as to why she has given birth to two daughters. She was mentally harassed and therefore she came to

her parents' house in June 2016. In March 2017, applicant No. 1 went to Jalna and taking disadvantage of absence of her parents, he had assaulted her. She gave application to Women Cell, Jalna on 24-06-2017. petitioner took her to matrimonial home on 28-07-2017. She was then treated properly for 8 days. Thereafter again on the same count, they started harassing her. She was driven out of the house around 10.00 a. m. on 23-05-2018. They had snatched the daughters from her hand. She stayed till afternoon, but then they gave threat of dire consequence, therefore, she went to Jalna. She again filed application with Women Cell. Notice was given to petitioner, but they did not remain present. Therefore, she has lodged the report.

7. The petitioners have contended that, they have been falsely implicated. FIR is false and baseless. There is delay in lodging FIR. Petitioner No. 5 and 6 are residing separately. Petitioner No. 4 is also prosecuting her studies at Pune. FIR has been filed just to harass them. Details of the events have not been given and they have been kept as vague as possible. Therefore, they have prayed for quashment of the proceeding.

8. It will not be out of place to mention here that taking into consideration the fact that petitioner No. 1 and respondent No. 2 have twin daughters, the matter was referred to mediation.

However, it failed.

9. Heard learned Advocate Mr. R. S. Kasar appearing on behalf of petitioners, learned Addl. Public Prosecutor Mrs. V. S. Choudhari and learned Advocate Ms.Asha Rasal, appearing on behalf of respondent No.2. Perused the affidavit-in-reply given by respondent No. 2. The contents are mainly against petitioner No. 1 to 3. When it was pointed out to the learned advocate for the petitioners that, this Court is not inclined to grant any relief to petitioners No.1 to 3, he prayed for withdrawal of the petition as against them.

10. The petition was considered only for the allegations against the sister petitioner No. 4 and petitioner No. 5 and No.6/ paternal uncle of husband. No specific role has been attributed against them in respect of offence under Section 498-A or under Section 504, 506 of the Indian Penal Code. FIR does not speak that there was any demand of amount. It is stated that all of them used to harass her mentally and physically. If at all it would have been, then it would have been mainly by the husband and the father and mother-in-law. The perusal of the entire FIR would show that all of them had done the act in chorus. In fact, petitioner No. 4 is taking education in MIT Pune. Her visits to her own house at the time of vacations and festive season, can not be inferred as visits to commit offence. Petitioner No. 5 and 6 are also admittedly residing separately. In

fact, as per FIR, when respondent No. 2 was driven out at night time, she says that she had stayed with petitioner No. 5 and 6. If they had given her shelter in the wake of her need; why they would harass her? 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. Under such circumstance relief is required to be granted to the petitioners No. 4 to 6 by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- 1) The petition of petitioner No. 1 to 3 is disposed of as withdrawn.
- 2) The petition of petitioners No. 4, 5 and 6 is hereby allowed.
- 3) Relief is granted in terms of prayer clause "B" to the petitioners No. 4, 5 and 6 only.
- 4) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.