

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1357 OF 2018

Bhausahab Saluba Salve,
Age : 58 years, Occu. : Service,
R/o Yeshodhara Chal, Ambedkar Nagar,
Ghat Kopar, Tal. Kural, Mumbai (East).

...Petitioner

Versus

1) The State of Maharashtra
Through I. O. of
Kopargaon Police Station,
Dist. Ahmednagar.

2) Jaishree Raul Nikam,
Age : 25 years, Occu. : Household,
R/o Khadki (Ward No. 1, Kopargaon,
Tal. Kopargaon, Dist. Ahmednagar.

...Respondents

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Mr. P. B. Patil, Advocate for Petitioner.

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

Mr. A. S. Sonwane, Advocate (appointed) 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 the entire proceeding in Cri. Case bearing R. T. C. No. 141 of 2014 pending with learned J. M. F. C., at Kopargaon, Dist. Ahmednagar alongwith F. I. R. vide Crime No. I-84 of 2014, registered with Kopargaon Police Station, Dist. Ahmednagar, for the offences punishable under Section 498-A, 323, 504 read with 34 of the Indian Penal Code.

03. Respondent No. 2 got married to accused No. 1 on 20.05.2013 as per the custom. Accused No. 2 and 3 are the parents of accused No. 1, accused No. 4 is unmarried sister of accused No. 1, accused No. 5 and 6 are married sisters of accused No. 1, accused No. 8 is parental aunt of the accused No. 1 and accused No. 9 i.e. present petitioner is neither distant relative nor relative of any of the accused No. 1 to 8 or either of the complainant and even petitioner is not in-laws of complainant.

04. Respondent No. 2 – informant has contended that, after the marriage she went to co-habit with her husband at her matrimonial home at Narayanwadi, Chalisgaon and

resided alongwith father-in-law, mother-in-law and unmarried sister-in-law. She alleged that as her husband was in service at Mumbai at Air India, he came at night at Friday at Chalisgaon and he returned to Mumbai on Sunday at night. She further alleged that her elder sister-in-law Shalini Deore were residing at Chalisgaon and other sister-in-laws namely Anita Sawant and Deepali Kamble were residing at Mumbai and Sangli respectively. She further alleged that they came at Chalisgaon for Rakhi Purnima and paternal aunt Ramabai is also the resident of Borale, Borale village is near Chalisgaon, therefore, she continuously came at her matrimonial house. The accused persons gave her good treatment for about 2 months. Thereafter, interview conducted at Chalisgaon School, demanded Rs. 8,00,000/- for joining service and Rs. 4,00,000/- for purchasing of vehicle from her parental house. Accused persons were beating her and keeping on fasting many times. They have taken all the work from her like a maidservant. Because of huge expense in her marriage, there was no economic condition of her father to pay money. They abused her in filthy language and her mother-in-law and sister-in-law told her to carry her to parental house. Thereupon, she told this fact to her husband. On the contrary, her husband also beaten her and

told that if she is able to reside there in that condition, otherwise she go, he don't like her, he has performed marriage with her due to pressure of his father and mother. She conveyed said facts to her sister-in-law at the time of Rakhi when she came. On the contrary she told her mother and sister to give more work to her and told to bear as it is, otherwise they will tell brother to beat seriously to her. She further alleged that even parental aunt also given torture to her and told her to bring Rs. 12,00,000/- from her parents. It is further alleged that on 13.10.2013 her father-in-law brought to her to parental house. Thereafter, her father and mother requested them to take their daughter for co-habitation. But, they did not bring her for co-habitation and abused on phone and told that their daughter will not co-habit. Therefore, she lodged the report.

05. The petitioner has contended that, the body of complaint itself shows that there are general allegations against the accused No. 1 to 8 i.e. her in-laws. There is no specific allegation against the petitioner that he gave mental and physical torture to respondent No. 2 and even no specific role is attributed to the petitioner (accused No. 9) in alleged crime or statements of charge-sheet. It is further alleged that the petitioner is residing at

different place of service at Mumbai from matrimonial home of her. The barring and sweeping allegations does not implicate with cruel treatment or man-handling or abusing to her by the petitioner and petitioner is falsely implicated by the respondent No. 2. After the 5 months of lodging the report against her husband and in-laws, she after thought filed false complaint against the petitioner with intent to only harass and pressurize to the petitioner. After filing of the said complaint, Police has investigated the said crime. The charge-sheet has been filed on 10.7.2014 in Trial Court at Kopergaon. After filing of charge-sheet, the R. T. C. No. 141 of 2014 was registered and the said proceeding was pending against all the accused. Being aggrieved by the inaction on the part of respondent No. 2, accused No. 1 to 8 filed Criminal Writ Petition NO. 1114 of 2014 in Honourable High Court for quashing and setting aside the F. I. R. alongwith entire proceeding. After hearing both the sides vide order dated 17.3.2015 Hon'ble High Court partly allowed the petition and quashed the criminal case No. 141 of 2014 to the extent of petitioners No. 5 to 8. The present petitioner could not know that the accused No. 1 to 8 have filed Writ Petition against the said complaint and quashment of the entire proceeding. Therefore,

present petitioner could not file writ petition with other co-accused No. 1 to 8. Present petitioner is not relative or in-laws of the respondent No. 2 and he is unnecessarily dragged in above false crime. Therefore, he prayed for quashment of the entire proceeding bearing R. T. C. No. 141 of 2014 alongwith F. I. R. No. 84 of 2014.

06. Heard learned Advocate Mr. P. B. Patil, Advocate for Petitioner, Mr. S. J. Salgare, learned A. P. P. for Respondent No. 1 – State, Mr. A. S. Sonwane, learned Advocate (appointed) for Respondent No. 2.

07. Perusal of FIR would show that no specific role has been attributed against the petitioner in respect of offence under Section 498-A of the Indian Penal Code. Further, it can be seen that nothing was demanded by present petitioner as per the allegations in the FIR itself. Present petitioner is serving and permanent resident of Mumbai. Therefore, it can not be inferred that present petitioner was harassing her. So, it appears that he has 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 present petitioner by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure.

08. Hence, following order ;

ORDER

- (i)The petition is allowed.
- (ii)Relief is granted in terms of prayer clause "B".
- (iii)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.
- (iv)Leave is granted to make correction to mention correct name of accused/applicant number given to him in the case.
- (v)Rule made absolute in those terms.

[SMT. VIBHA KANKANWADI]

JUDGE

[T. V. NALWADE]

JUDGE

Dahibhate/-