

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1361 OF 2018

- 1) Atul s/o Khandu Vidhate,
Age 30 years, Occupation Service,
- 2) Khandu Gangaram Vidhate,
Age 59 years, Occupation Retired,
- 3) Sindhu Khandu Vidhate,
Age 51 years, Occupation Household,

Nos.1 to 3 R/o Shingarewadi,
Baibazar, Kurla, Mumbai – 400 070.
- 4) Pandurang naguji Naik,
Age 58 years, occupation Service,
R/o C-2/5-2, Sector 16,
Near Fire Brigade, Vashi Navi
Mumbai – 400 703.
- 5) Archana Mahendra Devghare,
Age 32 years, Occupation Household,
- 6) Mahendra Narayan Devghare,
Age 35 years, Occupation Service,
R/o Near ONGC, Ganesh Apartment,
7th Floor, Panvel Tq. Panvel Dist.
Raigad.
- 7) Aruna Prashant Zodage,
Age 28 years, Occupation Household,
- 8) Prashant Harischandra Zodage,
Age 34 years, Occupation Service,

Nos.7 and 8 R/o Near Annasaheb Patil
Garden, Opposite Super Market,
Sector 8, Koparkhairane,
Navi Mumbai.

...Petitioners

Versus

1) The State of Maharashtra
Through Police Station Officer,
Tofkhana Police Station, Ahmednagar.

2) Kalyani Atul Vidhate,
Age 30 years, Occupation Household,
R/o Laxmi Sadan, Tate Mala,
Bhutkarwadi, Savedi Road,
Ahmednagar.

...Respondents

Mr. Tambe Rahul A, Advocate for petitioners.

Mrs. V. S. Choudhary, Addl. Public Prosecutor, for respondent
No.1 / State.

Mr. P. P. Kothari, Advocate for respondent No.2.

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

DATE : 07-12-2018.

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

1. At the outset, learned Advocate for the applicants seeks permission to withdraw the application to the extent of applicants No.1, 2 and 3.

2. Permission granted. The application stands disposed of as withdrawn to the extent of applicants No.1 to 3.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 of this Court under Article 227 of Constitution of India and Section 482 of the Code of Criminal Procedure in order to quash the First Information Report vide Crime No. 379 of 2018 dt. 31-07-2018, registered with Tofkhana Police Station, Ahmednagar, for the offences punishable under Section 498-A, 504, 506 read with 34 of the Indian Penal Code.

5. Respondent No.2 got married to petitioner No.1 on 27-12-2015 at Kalasagar Mangalkaryalaya, Junnar, Dist. Pune. Petitioner No.1 is the husband of respondents No.2 and 3 are the parents, petitioners No. 5 and 7 are the sisters of petitioners No.1. Petitioner No.4 is the maternal uncle (mother's brother) of petitioner No.1. Petitioner No. 6 is the husband of petitioner No.5 and petitioner No.8 is the husband of petitioner No.7.

6. Respondent No.2 – informant has contended that, her parents had given 15 tolas of gold ornaments and her father had spent about Rs.15 lakhs on her marriage. She was treated properly for about 1 month. Thereafter, all the in-laws started giving taunts to her on trifle grounds. All the petitioners have not behaved properly with her and harassed her by abusing and threatening. She was forced to undergo abortion. Petitioners were requested by her parents that she should not be harassed, but there was no change in the behaviour of petitioners. She was driven out of the house on 29-04-

2018. She had filed application with Womens' cell for compromise, but did not receive any positive response from petitioners. Therefore, she has lodged the report.

7. The petitioners have contended that, petitioner No. 1 has filed petition for restitution of conjugal rights on 12-01-2017 before Civil Judge Senior Division, Thane. Consent terms were recorded in that proceeding. Respondent No. 2 agreed for resuming cohabitation. In view of those consent terms, the said petition was withdrawn. However, thereafter, parents of respondent No. 2 came to his house on 29-04-2018 and quarreled with him. They had taken the respondent No. 2 with them and threatened that she would file false case against all the petitioners. Petitioner No. 2 and 3 are old and suffering from ailments. Petitioner No. 4 resides separately. He is suffering from Cancer and undergoing treatment in Hiranandani Hospital, Powai, Mumbai. Petitioner No. 5 to 8 also reside separately. Petitioner No. 5 and 7 are also suffering from ailments. They are busy in their household activities. The contents of the FIR are totally false and concocted. They have been unnecessarily roped in. 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. Heard learned Advocate Mr. Tambe Rahul A. appearing on

behalf of petitioners, learned Addl. Public Prosecutor Mrs. V. S. Choudhari and learned Advocate Mr. P. P. Kothari, appearing on behalf of respondent No.2. 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.

9. The petition was considered only for the allegations against the other petitioners. At the outset, it can be seen from the contents of the FIR that respondent No. 2 was allegedly harassed by present petitioners No.4 to 8 along with petitioners No. 1 to 3. Petitioner No.4 is residing separately. Petitioners No. 5 and 7 are the sisters of husband of respondent No.2. Petitioners No. 5 and 7 are admittedly residing in their matrimonial home. Taking into consideration the stay of respondent No.2 at her matrimonial home, it is hard to believe that petitioners No.4 to 8 would have visited house of petitioner No.1 frequently. Only omnibus statement is made that they were also harassing her. The reason for alleged harassment is also not clear. It is only stated that it was on the count of trifling matters. There are no allegations of demand of money or valuable articles. No specific role has been attributed against them in respect of offence under Section 498-A of the Indian Penal Code. It appears that, as a routine all the relatives of the husband have been roped. It would be a futile exercise to ask petitioners No.4 to 8 to face the

trial. Under such circumstance relief is required to be granted to the petitioners No.4 to 8 by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- 1) Petition of petitioner No. 1, 2 and 3 is hereby disposed of as withdrawn.
- 2) Petition of petitioners No. 4 to 8 is hereby allowed.
- 3) Relief is granted in terms of prayer clause "B" to the petitioners No. 4 to 8 only.
- 4) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.