

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1418 OF 2018

- 1) Ashok s/o Gorakh Naik,
Age 35 years, Occupation Agri.,
R/o Pakhrud Tq. Bhoom Dist.
Osmanabad.
- 2) Gorakh s/o Damodar Naik,
Age 72 years, Occupation Agri.,
R/o Pakhrud Tq. Bhoom Dist.
Osmanabad.
- 3) Sunanda w/o Gorakh Naik,
Age 50 years, Occupation Agri.,
R/o Pakhrud Tq. Bhoom Dist.
Osmanabad.
- 4) Ganesh s/ Gorakh Naik,
Age 30 years, Occupation Assistant
Professor,
R/o Pethenagar Bhausinghpura
Aurangabad.
- 5) Amol Gorakh Naik,
Age 26 years, Occupation Naik,
R/o Pakhrud Tq. Bhoom Dist.
Osmanabad.
- 6) Kashinath s/o Damodar naik,
Age 74 years, Occupation Agri.,
R/o Pakhrud Tq. Bhoom Dist.
Osmanabad.
- 7) Dhananjay s/o Kashinath Naik,
Age 30 years, occupation Agri.,
R/o Pakhrud Tq. Bhoom Dist.
Osmanabad.

...Petitioners

Versus

- 1) The State of Maharashtra,
Through The Police Station Officer,
Beed Shahar Police Station
Tq. Beed Dist. Beed.
- 2) Deepa w/o Ashok Naik,
Age 24 years, Occupation Housewife,
R/o Terawi Line Dhande Galli,
Beed.

...Respondents

Mr. S. E. Shekade, Advocate for petitioners.

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

Mr. S. R. Sirsat, Advocate for respondent No.2.

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

DATE : 10-12-2018.

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

1. At the outset, learned counsel 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 The application stands disposed of as withdrawn to the extent of applicants No.1, 2 and 3.
3. Rule. Rule made returnable forthwith. By consent, heard both sides finally.
4. Present petition has been filed by original accused persons invoking the powers of this Court under Article 226 and 227 of

Constitution of India as well as the inherent powers of this Court under Section 482 of the Code of Criminal Procedure in order to quash the proceedings of Regular Criminal Case No. 398 of 2015 pending before Chief Judicial Magistrate, Beed, 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 petitioner No.1 on 10-02-2012. Petitioner No.1 is the husband of respondent No.2, petitioner No.2 and 3 are the parents, petitioner Nos.4 and 5 are brothers of petitioner No.1, petitioner No.6 is paternal uncle and petitioner No. 7 is the cousin brother of petitioner No.1.

6. Respondent No.2 – informant has contended that,her father had spent Rs.3 lakhs on her marriage. He had given gifts to petitioners and their relatives. Informant went to Pakrud for cohabitation. She was treated properly for about 4 months. Her husband is a Carpenter. All the petitioners started demanding Rs.1 lakh for purchasing saw mill. All the petitioners were harassing her mentally. Petitioner No.1 to 5 were not keeping her starved. When she demanded amount to her father, her father showed inability. In the meantime she became pregnant. Petitioners were not giving her medical aid. In spite of advice through her parents, petitioners were not behaving properly with her. Her father brought her for delivery

in February 2014. Daughter was born to her. Petitioners did not approve it. Nobody came to see her and her daughter. Petitioner went there after about 15 days and raised unnecessary quarrel. They told that if amount of Rs.1 lakh is given, then only they would keep informant with them. Since then she is sustaining the harassment. She has not been taken for cohabitation. Therefore, she has lodged the report.

7. The petitioners have contended that, FIR is baseless and concocted. There is delay in lodging FIR. Petitioner No.4 served as Assistant Professor at Dr. V. K. Patil Engineering College, Hatta, Parbhani from 25-07-2010 to 20-06-2011. Thereafter from 2012 till today he is serving at P. E. S. College of Engineering, Aurangabad. Petitioner No. 6 and 7 are residing separately from other petitioners. Petitioner No. 1 has made several attempts to bring respondent No. 2 for cohabitation. Therefore, they have prayed for quashment of the proceeding.

8. Heard learned Advocate Mr. S. E. Shekade appearing on behalf of petitioners, learned Addl. Public Prosecutor Mr. R. V. Dasalkar and learned Advocate Mr. S. R. Sirsat, 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 other petitioners. Petitioner No. 4 has produced documents on record to show that he is residing at the place of his job. Petitioner No. 5 to 7 reside in Pakhrud. Petitioner No. 6 and 7 are admittedly residing separately. There is no reason for them to demand and harass respondent No. 2. Their visit to the matrimonial house of respondent No.2 for settlement of dispute should not be inferred for committing offence. Omnibus statement has been made about demand and harassment against them. If at all there would have been a demand 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 made the demand in chorus which is not possible. Nothing was demanded by petitioners No.4 to 7 for themselves as per the allegations in the FIR itself. Petitioner No.5, though resides with petitioners No.1 to 3, when allegations have been made about assault by petitioners No.1 to 3, why petitioner No.5 would assault, wife of his elder brother ? So, it appears that, as a routine all the relatives of the husband have been roped. Under such circumstance relief is required to be granted to the petitioners No. 4 to 7 by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure. Hence, following order.

ORDER

- 1) Petition filed by petitioners No. 1, 2 and 3 is disposed of as withdrawn.
- 2) Petition of petitioners No. 4 to 7 is hereby allowed.
- 3) Relief is granted in terms of prayer clause "B" to the petitioners No. 4 to 7 only.
- 4) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.