

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1392 OF 2017

- 1) Pramod Prabhakar Pawar,
Age major, Occupation Service,
R/o 2/202, Building No.1, Shree
Sai Samarth Complex, Tukaram
Chowk, Davadigaon, Dombivali
(E) – 421 203.
- 2) Bhagabai Prabhakar Pawar,
Age major, Occupation Housewife,

**(Petition in respect of petitioners No.1
and 2 is rejected vide order dated
09-10-2017)**
- 3) Prabhakar Kachru Pawar, age major,
Occupation Retired,
- 4) Pravin Prabhakar Pawar,
age major, Occupation Service,
- 5) Chhaya Pravin Pawar,
age major, Occupation Housewife,

Petitioners No.2 to 5 R/o Trimurty Vasahat,
Chheda Cross Road, Near Joshi High
School, Dombivali.
- 6) Sangita Sanjay Devare,
age major, Occupation housewife,
- 7) Sanjay Tapiram Devare,
age major, Occupation service,

Petitioners No.6 and 7 R/o Azadegaon,
Near Kaveri Bus Stop, Dombivali.
- 8) Pratibha Sunil Brahmne,

age major, Occupation housewife,

- 9) Sunil Madhukar Brahmne,
age major, Occupation service.

Petitioners No. 8 and 9 R/o Bhopal
(Madhya Pradesh)

...Petitioners

Versus

- 1) The State of Maharashtra

- 2) Minakshi Pramod Pawar,
Age major, Occupation Housewife,
R/o Devkinandan Society, Valvadi
Shivar, Devapur, Dhule.

...Respondents

Mr. P. S. Paranjape, Advocate for petitioners.

Ms. P. V. Diggikar, Addl. Public Prosecutor, for respondent No.1
/ State.

Mr. Joydeep Chatterji, Advocate for respondent No.2.

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

DATE : 04-09-2018.

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

1. Present petition has been filed by original accused persons invoking the inherent powers of this Court under Article 226 of the Constitution of India in order to quash the First Information Report vide Crime No. 31 of 2017 dated 04-04-2017, registered with Devapur Police Station, for the offences punishable under Section 498-A, 323, 504, 506, 406 read with 34 of the Indian Penal Code.

2. Respondent No.2 got married to petitioner No.1 on 13-03-2011. 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 is brother of petitioner No.1, petitioner No.5 is wife of petitioner No.4, petitioners No.6 and 8 are sisters of petitioner No.1, and petitioners No.7 and 9 are husband of petitioners No.6 and 8.

3. Respondent No.2 – informant has contended that, after marriage all the petitioners treated her well for two to three months. Thereafter all the accused – petitioners started ill-treating her mentally and physically, on count of demand of Rs.10 lakhs for purchase of flat. All the accused persons used to assault her, threaten her to kill. When she was pregnant for about seven months her sister-in-laws, mother-in-law and wife of brother-in-law blamed her that she has stolen gold ring of three gram. After birth of her son Darshil her husband had a suspicion about paternity of the child. Her mother-in-law quarreled with her without any reason and her husband assaulted her and drove her out of the house on 12-01-2013. Therefore, she resided at her maternal house for four months. After compromise at Marriage Counselling she went for cohabitation on 22-05-2013. Again family members of husband started ill-treating her on the count of money. Her father transferred amount of Rs.3,60,000/- to the account of her husband during 03-

07-2013 to 12-07-2016. He has withdrawn cash amount of Rs.20,000/- from ATM of HDFC Bank on 04-01-2016 and handed over it to her husband for purchase of washing machine. All the gold ornaments which were given by her father in marriage were taken by her mother-in-law. Her husband had assaulted her and pressed her neck on 01-09-2016. Thereafter he drove her out of the house along with son Darshil. Since then she is residing at her maternal house at Dhule. In the meantime, her father and relatives tried to settle the matter but taking suspicion on her chastity; petitioners – original accused told that they will allow respondent No.2 – original informant to come and stay only after receipt of Rs.10 lakhs. Therefore, informant went to Mahila Suraksha Samiti Police Adhikshak Office, Dhule and made attempt to have a compromise but it failed. Thereafter again attempts were made for cohabitation but it failed, and therefore she has lodged the report.

4. The petitioners have contended that, it is a false and concocted story. It is afterthought allegations with only intention to harass them. Petitioner No.1 contended that, he lived separately from his family members on instigation of respondent No.2- original informant. Petitioner No.3, 4, and 5 are residing in the house of petitioner No. 3, separately from petitioner No. 1. Petitioners No.6 and 7 were residing separately in their house. Petitioners No.8 and 9 were also residing separately at Bhopal. Details of the events have

not been given and they have been kept as vague as possible. Father of the respondent No.2 himself has transferred amount of Rs.3,60,000/- to the account of petitioner No.1 with intention to help him and his daughter i.e. respondent No.2. There is delay in lodging the FIR. Therefore, they have prayed for quashment of the proceeding.

5. Heard learned Advocate Mr. P. S. Parajnape appearing on behalf of petitioners, learned Addl. Public Prosecutor Ms. P. V. Diggikar and learned Advocate Mr. Joydeep Chatterji, 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 petitioner No.3 only. The Petition was already rejected against petitioner No. 1 and 2 by this Court vide order dt. 09-10-2017.

6. The petition was considered only for the allegations against the brother-in-law – petitioner No.4, married sister-in-laws petitioner No.6, 8 and their husband petitioners No.7 and 9. No specific role has been attributed 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

when elders are there. Nothing was demanded by petitioners No.4 to 9 for themselves as per the allegations in the FIR itself. Petitioner No. 6 to 9 are residing separately from Petitioners No. 1 to 3. It appears that, as a routine all the relatives of the husband have been roped. Moreover father of the respondent No.2 has deposited amount in the account of petitioner No.1 only. Under such circumstance relief is required to be granted to the petitioners No.4 to 9 by invoking the inherent powers of this Court under Article 226 of the Constitution of India. Hence, following order.

ORDER

- 1) Petition of petitioners No.4 to 9 is hereby allowed.
- 2) Relief is granted in terms of prayer clause "B" to the petitioners No.4 to 9.
- 3) Petition to the extent of petitioners No.3 is hereby disposed of as withdrawn.
- 4) Petition to the extent of petitioners No.1 and 2 is already rejected on 09-10-2017.
- 5) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE