

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1444 OF 2018

- 1) Parmeshwar Bapurao Warkhade,
Age 36 years, Occupation Service,
R/o Kanchan Nagar, Jalna.
- 2) Sujata Parmeshwar Warkhade,
Age 35 years, Occupation Housewife,
R/o Kanchan Nagar, Jalna.
- 3) Ritesh Rangnathrao Solanke,
Age 36 years, Occupation Service,
R/o Silver Mist, Pimple Soudagar,
Pune.
- 4) Sangita Ritesh Solanke,
Age 35 years, Occupation Housewife,
R/o Silver Mist, Pimple Soudagar,
Pune.

...Petitioners

Versus

- 1) The State of Maharashtra
Through P. S. Ashti Tq. Partur
Dist. Jalna.
- 2) Meera d/o Panditrao More,
(Meera w/o Nitin Lipne)
Age 32 years, Occupation Service,
R/o Survey No.15/10 B, Sargam
Society, Lane No.2, Plot No.87,
Juna Warje Naka, Karvenagar,
Pune.

...Respondents

Mr. P. K. Chavare a/w Mr. Ajit B. Gaikwad (Patil), Advocate for
petitioners.

Mr. S. J. Salgare, Addl. Public Prosecutor, for respondent
No.1 / State.

Mr. S. L. Awchar, Advocate for respondent No.2 (Appointed).

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

DATE : 11-12-2018.

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

1. Rule. Rule made returnable forthwith. By consent, heard finally.
2. Present petition has been filed by original accused persons invoking the powers of this Court under Article 226 of Constitution of India and Section 482 of the Code of Criminal Procedure in order to quash the First Information Report vide Crime No. 33 of 2018 dt. 20-03-2018, registered with Ashti Police Station, Tal. Partur, Dist. Jalna, for the offences punishable under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code and Section 3 and 4 of Dowry Prohibition Act.
3. Respondent No.2 got married to petitioner No.1 on 26-02-2012. Petitioners No.2 and 4 are the sisters of husband of respondent No.2. Petitioners No. 1 is the husband of petitioner No. 2 and petitioner No. 3 is the husband of petitioner No. 4.
4. Respondent No.2 – informant has contended that, her parents had given dowry of Rs.3,50,000/-, gold and household articles at the time of marriage. It was decided that remaining amount of dowry of Rs.1,50,000/- would be paid later. She stayed at her matrimonial

home for about 4-5 days after marriage. She was serving in a software company at Mumbai at that time. Her husband was serving with Kotak Mahindra Compnay at Pune. She went to stay at Pune with her husband and in-laws. She was unable to commute between Pune and Mumbai and therefore, left her job after about 5 months. Her mother-in-law started giving taunts as to why she has left the job and why her parents are not giving remaining amount of dowry. She was harassed on that count. She was then sent to Selgaon. After she came there, her husband, mother-in-law, brother-in-law and all present applicants went to her house at Selgaon and asked why she has left the job, her husband had married her because of the service. They demanded remaining amount of dowry. They started asking the amount she had already earned. She conveyed the harassment to her father. Her brother came on the next day. He had tried to settle the dispute, but accused persons asked him to leave. He then left for Pune. Thereafter, she was assaulted after about 4-5 days on the count as to why she had called her brother. They asked her to leave the house by saying that they do not require her. She went to her parents' house after she was driven. Therefore, she has lodged the report.

5. The petitioners have contended that, husband of respondent No.2 has filed Hindu Marriage Petition against her for grant of divorce. She had filed counter-claim for restitution of conjugal

rights. Petition of the husband of respondent No.2 came to be rejected and counter-claim came to be allowed on 13-12-2017. Husband of respondent No.2 has preferred appeal and stay has been granted to the said decree. Respondent No.2 had filed Criminal Misc. Application No.5124 of 2014 under Domestic Violence Act before Judicial Magistrate First Class, Pune. The said application came to be rejected on 17-09-2018. Petitioners are innocent. 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. They all are residing separately from respondent No.2 and her husband. There is inordinate delay in lodging the FIR. On all these grounds, they have prayed for quashment of the FIR.

6. Heard learned Advocate Mr. P. K. Chavare appearing on behalf of petitioners, learned Addl. Public Prosecutor Mr. S. J. Salgare and learned Advocate Mr. S. L. Awchar, appointed for respondent No.2.

7. At the outset, it can be seen from the contents of the FIR that there are specific allegations against petitioners. Admittedly, the applicants were residing separately from the husband of respondent No.2 and respondent No.2. The main allegations are against the husband, mother-in-law and brother-in-law; who were admittedly residing with husband. Another fact is that Judicial Magistrate has

come to the conclusion that there was no domestic violence to respondent No.2. Another competent Court has allowed the petition for restitution of conjugal rights. However, these petitions are between the husband and wife. The allegations against present petitioners are that they were also asking respondent No.2 as to why she has left the job. These petitioners were not suppose to gain anything from her job, nor suppose to loose anything after she left job. Only omnibus statements have been made against them. Respondent No.2 has not stated as to when she was shifted to Selgaon ? Her FIR is also not clear as to whether she was alone sent to Selgaon or her husband also shifted there. But at another breath she says that her husband had come to Selgaon with petitioners. That indicates that she was alone there. What was the approximate period of her stay at Selgaon is also not stated. Vague FIR has been filed. Taking into consideration the stay of respondent No. 2 at her matrimonial home, it is hard to believe that petitioners would have visited house where respondent No. 2 was residing frequently. 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 all the petitioners to face the trial. Under such circumstance relief is required to be granted to the petitioners by invoking the inherent powers of this Court under Section 482 of

the Code of Criminal Procedure. Hence, following order.

ORDER

- 1) The Petition is allowed.
- 2) Relief is granted in terms of prayer clause "B" to the petitioners only.
- 3) The fees of the appointed counsel is quantified as Rs.3,000/- (Rupees Three Thousand Only) and it is to be paid through the High Court Legal Services Authority, Sub-Committee Aurangabad.
- 4) Rule made absolute in the above terms.

(SMT. VIBHA KANKANWADI)
JUDGE

(T. V. NALAWADE)
JUDGE

vjg/-.