

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL WRIT PETITION NO. 1605 OF 2016

1) Dipak @ Nilesh S/o Ashok Marathe,
Age: 33 Years, Occ: Service,

2) Manglabai W/o Ashok Marathe,
Age: 55 Years, Occ: Household,

3) Ashok Baburao Marathe,
Age: 60 Years, Occ: Nil,

1 to 3 R/o: Indranil Society,
Biba Park, Khotenagar, Jalgaon,
Tal & Dist: Jalgaon.

4) Pallavi Gopal Dhawle,
Age: Major, Occ: Nil,

5) Gopal Prakash Dhawle,
Age: Major, Occ: Service,

6) Sumanbai Prakash Dhawle,
Age: 60 Years, Occ: Household,

4 to 6 R/o:
Surat, Tal & Dist: Surat Gujrat.

7) Rajesh S/o Changdeo Pawse,
Age: 40 Years, Occ: Advocate,
R/o: Rameshwar Colony,
Jalgaon Tal & Dist: Jalgaon.

... PETITIONERS

VERSUS

1) The State of Maharashtra,
Through Police Inspector,
Ramanand Nagar Police Station,

Jalgaon, Dist: Jalgaon.

- 2) Jayshree W/o Dipak Marathe,
Age: Major, Occ: Service,
R/o. Raisonni Nagar, Mehrun,
Tq & Dist. Jalgaon.

... **RESPONDENTS**

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Mr. Girish Nagori, Advocate for Petitioners.

Mr. M. M. Nerlikar, APP for Respondent No.1 / State.

Mr. J. I. Shaikh, Advocate for Respondent No.2 (Appointed).

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

DATE : 25th September, 2018.

JUDGMENT: (Per T. V. Nalawade, J.)

. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2 The proceeding is filed for relief of quashing of FIR No.140 of 2016, registered with Ramanand Nagar Police Station, District Jalgaon, for the offences punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code.

3 The submissions made and the record show that the crime is registered on the basis of report given by Respondent No.2,

Jayshree. Applicant No.1 is her husband. Applicant No.2 is the mother of Applicant No.1, Applicant No.3 is the father of Applicant No.1, Applicant No.4 is a married sister of Applicant No.1, Applicant No.5 is the husband of Applicant No.4, Applicant No.6 is the mother-in-law of Applicant No.4 and Applicant No.7 is a distant relative of Applicant No.1 and he is also an Advocate.

4 Allegations made in the FIR are mainly against the husband. It is contended that right from beginning, the husband was giving ill-treatment after consuming liquor. He used to say that he had no interest in the first informant. Allegations are made that he was asking the first informant to bring Rs.5,00,000/- from her parents as he was indebted. It is contended that on many times, she brought Rs.5,000/- and Rs.10,000/- from her parents to help the husband, but he was not satisfied with those amount. Allegations are made that the parents of the husband were instigating him to give ill-treatment to the first informant.

5 The main allegations are in respect of incident dated 15th November, 2016. It is her contention that on that day, other Accused, who were also from Surat, came to Jalgaon, they picked up quarrel

with her after coming to the house of her parents and then they gave beating to her. Allegations are made that Rajesh, relative of husband gave threats and then her father was also assaulted by using fist blows and kicks. Report in respect of incident dated 15th November, 2016 was given on 21st November, 2016 and the crime came to be registered mainly for the offences punishable under Section 498-A of the Indian Penal Code.

6 The submissions made and the record show that Applicant Nos.4 to 6 are residents of Surat (Gujarat). It is not probable that all these Applicants came from Surat only for the aforesaid incident. It appears that the father of first informant had approached police and he had given report in respect of some incident, but the report was treated as non-cognizable case. It can be said that as the report was treated as non-cognizable case, the FIR was given by Respondent No.2. Allegations made as against Applicant No.7, Rajesh, Advocate also do not appear to be probable in nature. It is clear that only to pressurize the husband, his relatives including distant relative are named in the FIR.

7 As the main allegations are against the husband and

there are also allegations against his parents that on their instigation the husband was giving ill-treatment, this Court holds that relief cannot be granted to Applicant Nos.1 to 3. However, it will be abuse of process of law if Applicant Nos.4 to 7 are made to face the trial for the aforesaid offences. In the result, the following order is passed:

ORDER

- I. The petition of Petitioner Nos.1 to 3 stands dismissed.
- II. The petition of Petitioner Nos.4 to 7 (Pallavi, Gopal, Sumanbai and Rajesh) is allowed. Relief is granted to Petitioner Nos.4 to 7 in terms of prayer clause (B).
- III. Rule is made absolute in those terms.

[SMT. VIBHA KANKANWADI, J.]

[T. V. NALAWADE, J.]

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