

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.60 OF 2019

1. Nimika Doris Chandiramani,
W/o Mr. Luiz, S. Chandiramani,
Age 42 years, Occu. Teacher,
R/o Flat No.63, 6th Floor,
Mangalam Apartment, 5-B Old Palasia,
Indore (Madhya Pradesh).
2. Kamla Yohan,
Wife of Mr. Silvester Yohan,
Age 79 years, Occu. Retired Teacher,
R/o Mission Compound,
Rasalpura, Mhow Tehsil,
District Indore (MP).
3. Deepak Nitesh Yohan,
Age 43 years, Occu. Nil,
R/o Mission Compound,
Rasalpur, Mhow Tahsil,
District Indore (MP).

... **Petitioners**

Versus

1. The State of Maharashtra,
Through Police Inspector,
Topkhana Police Station,
District. Ahmednagar.
2. Kiran Yohan,
W/o Mr. Deepak Yohan,
Age 40 years, Occu. Service,
R/o Building No.C-706,
Hill Side View, Industrial Area,
Ram Tekri, Hadapsar,
Pune-13.

... **Respondents**

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Mr. P.P.Kothari, Advocate for Petitioners.
Mr. S.B.Yawalkar, APP for Respondent-State.
Mr. V.S.Bedre, Advocate for Respondent No.2.

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**CORAM : T.V.NALAWADE AND
MANGESH S. PATIL, JJ.**

DATE : 26.04.2019

JUDGMENT : (Per Mangesh S. Patil, J.) :-

Heard. Rule. The Rule is made returnable forthwith. The learned APP waives service for the Respondent-State. The learned advocate Mr. V.S.Bedre waives service for Respondent No.2. With the consent of both the sides the matter is heard finally at the stage of admission.

2. The petitioners are seeking quashment of the FIR in Crime No.I-258 of 2015 registered with Tophkhana Police Station, Ahmednagar for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the IPC.

3. After hearing both the sides when this Court expressed its disinclination to grant any relief to petitioner

Nos.2 and 3, their learned advocate, on instructions, seeks leave to withdraw the application to their extent.

4. Respondent No.2 in her FIR inter alia alleged that her marriage was solemnized on 09.12.2004. Initially she cohabited with her husband and in-laws at Mahu, Indore. Only 20 days after the marriage she and her husband migrated to Africa and stayed there till the year 2012. The couple beget couple of children. They were intermittently coming back to India. During such visits, her husband, parents-in-law and the sister-in-law that is the petitioner No.1 were asking her to bring money from her parents for buying a car. The family re-migrated to India in October 2012 and cohabited with her in-laws at Mahu till June 2015. During this period, again a demand was raised for money and on that count her husband started beating her. As far as petitioner No.1 is concerned it is alleged that whenever she used to come back to the house of Respondent No.2 she was instigating her husband and parents-in-law due to which they used to quarrel with her. She was thereafter driven out of the house on 26.06.2015 and then lodged the FIR on 02.09.2015.

5. We have carefully gone through the papers. As can be noticed, the FIR contains only a bald allegation against petitioner No.1 wherein it is alleged that whenever she used to come back to the matrimonial home she was instigating the latter's husband and parents-in-law and on that basis they used to ill-treat her. Admittedly, she is the married sister-in-law cohabiting with her husband and it seems highly improbable and therefore unbelievable that she could have played any role in subjecting respondent No.2 to cruelty, particularly when admittedly respondent No.2 along with her family was staying in Africa for many years immediately after the marriage.

6. Besides, accepting the allegations at their face value, all the necessary ingredients for constituting the offence cannot be made out. The allegations are isolated and bald. In our considered view, the case of the petitioner No.1 stands covered by Category 1, 3 and 7 of the case ***State of Haryana and Ors. Vs. Bhajan Lal and Ors. ; AIR 1992 Supreme Court 604.***

7. The petition to the extent of petitioner No.1 is allowed. The rule is made absolute in terms of prayer clause 'A'.

8. The petition to the extent of petitioner Nos.2 and 3 is disposed of as withdrawn.

(MANGESH S. PATIL, J.)

(T.V.NALAWADE, J.)

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vmk/-