

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

CRIMINAL WRIT PETITION NO. 99 OF 2019

1. Yadav S/o Shankar Shinde,
Age:67 Years, Occu.- Pensioner,
R/o.: Omerga,
Tq.- Omerga, Dist.- Osmanabad.
 2. Usha W/o Yadav Shinde,
Age:58 Years, Occu.- Housewife,
R/o.: Omerga,
Tq.- Omerga, Dist.- Osmanabad.
- ... **Petitioners**

Versus

1. The State of Maharashtra,
Through Police Inspector,
Police Station, Omerga,
Taluka – Omerga, Dist.- Osmanabad.
 2. Kalpana W/o Harshad Mane,
Age: 35 Years, Occu: Household,
R/o: Ganesh Nagar, Behind Mugale
Hospital, Omerga,
Taluka-Omerga, Dist. Osmanabad.
- ... **Respondents**

.....

Mr. Nanda Garode h/f V.G. Sakolkar, Advocate for the Petitioner.

Mr. S. B. Yawalkar, A.PP for Respondents-State.

Mr. B.A. Husale, Advocate for the Respondent no.2 (Appointed).

.....

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

DATE : 12.04.2019

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

Heard. Rule. Rule is made returnable forthwith. Learned A.PP

waives service for the respondent no.1. On the request of both the sides the matter is heard finally at the stage of admission.

2. The petitioner no.1 is the maternal uncle and petitioner no.2 is his wife, of the husband of the respondent no.2 who has implicated them in Crime No.315 of 2018 registered with Omerga Police Station, District Osmanabad for the offences punishable under Section 498-A, 323, 504 read with Section 34 of the Indian Penal Code. They are seeking quashment of the crime.

3. The respondent no.2 lodged the F.I.R. on 19.09.2018 alleging that her marriage was solemnized with one Harshad Manikrao Mane on 28.06.2007. She was maintained properly for one and half year. Thereafter her husband started assaulting her under influence of liquor. He started insisting her to bring money from her father for buying a flat at Mumbai. Even the applicants were participating in making such demand and the ill-treatment meted out to her on that count. She then alleged that in the year 2013 when she became pregnant for the second time, she was ill-treated and assaulted as a result of which she suffered abortion. However, her husband and in-laws promised to maintain her properly but the ill-treatment continued. She therefore lodged a complaint with Police Station Aagashi, District Palghar on 11.01.2015. Subsequently, she was assaulted and driven

out on 20.11.2015. She therefore approached the Women's Grievance Cell at Omerga on 21.11.2015. Her in-laws undertook to maintain her properly during that inquiry. However the ill-treatment continued after she gave birth to second female child.

4. We have carefully heard both the sides. Perusal of the F.I.R. reveals that though it contains the names of the petitioners, no specific and precise allegations or overt acts have been attributed to them. It has not been made clear as to in what manner they had participated in either demanding money or subjecting her to physical or mental cruelty. Petitioner no.1 is the maternal uncle of the husband of the respondent no.2 whereas petitioner no.2 is the wife of the petitioner no.1. She was married in the year 2007 and had put in almost 11 years of marriage before lodging the F.I.R. Though the F.I.R. is silent about any active role played by the petitioners as is mentioned herein-above, in her supplementary statement dated 27.09.2018, she has come out with a specific allegation in the form of some improvement over and above what has been alleged in the F.I.R. by saying that when she had been to their house with her husband they had taunted her. It is alleged that once when her husband was assaulting her applicant no.2 had instigated him. Pertinently, her father Bhalchandra Suryawanshi, mother Shakuntala Shryawanshi, brother Vishal, wife of Vishal by name Komal have been equally vague in their statement under Section 161 of the Code of Criminal Procedure

while referring to the role played by the petitioners.

5. It is apparent that the last was not the first episode. Even according to the respondent no.2 as mentioned in the F.I.R. and the supplementary statement, there were earlier episodes which had led her to file a complaint with a Police Station in Palghar and also to approach Women's Grievance Cell at Omerga. Conspicuously, the papers of the investigation reveal that the parties had entered into some compromise on 05.12.2015 before the Women's Grievance Cell at Omegra. Even in this compromise, there is no whisper about the petitioners having played any role in subjecting the respondent no.2 to cruelty. Considering all these aspects, in our view, the case of the applicants is squarely covered by the category nos. 1, 3 and 7 of the **State of Haryana and Ors. V/s. Bhajan Lal and Ors.; AIR 1992 SUPREME COURT 604** and the crime deserves to be quashed.

6. The writ petition is allowed in terms of prayer clause 'B'. The Rule is accordingly made absolute. The fees of the learned advocate for the respondent no.2 who is appointed by this Court to represent her is quantified @ Rs. 3000/- which shall be paid to him through the High Court Legal Services Authority.

[MANGESH S. PATIL, J.]

[T.V. NALAWADE, J.]