

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 103 OF 2019

1. Shailesh S/o Shashikant Deshpande,
Age: 33 Years, Occu: Service,
R/o. N-12, G-62, Swami Vivekanand Nagar,
Hadco, Aurangabad.
District - Aurangabad.
 2. Shashikant S/o Rajeshwar Deshpande,
Age: 60 Years, Occu: Business,
R/o. N-12, G-62, Swami Vivekanand Nagar,
Hadco, Aurangabad.
District - Aurangabad
 3. Shila W/o Shashikant Deshpande,
Age: 55 Years, Occu: Household,
R/o. N-12, G-62, Swami Vivekanand Nagar,
Hadco, Aurangabad.
District - Aurangabad
 4. Sumedha W/o Prasad Vyas,
Age: Major, Occ: Household,
R/o. Islampur, Dist. Sangali.
 5. Rupali W/o Yogesh Deshmukh,
Age: 36 Years, Occu: Service,
R/o. N-12, G-62, Swami Vivekanand Nagar,
Hadco, Aurangabad.
District - Aurangabad.
 6. Yogesh W/o Vilasrao Deshmukh,
Age: 38 Years, Occu: Service,
R/o. N-12, G-62, Swami Vivekanand Nagar,
Hadco, Aurangabad.
District - Aurangabad.
- ... **Petitioners**

Vs.

1. The State of Maharashtra
Through Police Station Kadim, Jalna.
2. Sonali W/o Shailesh Deshpande,

Age: 25 Years, Occu: Household,
At Present R/o: Care of Pawan Pardikar,
Prayag Nagar (Near Kanchannagar),
Tq. & Dist.- Jalna.

... **Respondents**

Mr. V.D. Sonawane, Advocate for the Petitioners.
Mr. S.B. Yawalkar, A.P.P for the Respondent / State.
Mr. S.D. Dudhate, Advocate for the Respondent no.2 (Appointed).

**CORAM : T.V. NALAWADE &
MANGESH S. PATIL, JJ.**
DATE : 18.04.2019

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

Heard. Rule. Rule is made returnable forthwith. The learned A.P.P. waives service for the respondent no.1. With the consent of both the sides the matter is heard finally at the stage of admission.

2. The petitioners are seeking quashment of Crime No.I-376 of 2018 registered with Kadim Police Station, Jalna for the offences punishable under Section 498-A, 323, 504 read with Section 34 of the Indian Penal Code.

3. The petitioner no.1 is the husband of the respondent no.2, petitioner nos.2 and 3 are his parents, petitioner no.4 is his married sister, petitioner no.5 is his maternal cousin and petitioner no.5 is the wife of the petitioner no.6.

4. The respondent no.2 lodged the F.I.R. on 14.12.2018

alleging that she was subjected to ill-treatment on account of the demand of the applicants of money and the ill-treatment meted out to her on that count.

5. The learned advocate for the petitioners submits that the F.I.R. is vague and omnibus. It has been lodged to wreck vengeance. No ingredients for the offences can be made out even accepting the allegations at their face value. It would be an abuse of the process of law if the petitioners are made to face the investigation and the charge.

6. The learned A.P.P. and the learned advocate for the respondent no.2 submit that at this juncture meticulous scanning of the material is not excepted. The allegations clearly show that respondent no.2 was subjected to ill-treatment on account of demand for money which constitutes an offence punishable under Section 498-A of the Indian Penal Code and the petition may be rejected.

7. Before approaching the facts in the matter in hand, one is reminded of the observations of the Supreme Court in very many cases wherein in similar set of crimes initiated at the instance of the daughter in law against the husband and his relatives, it has been noticed that the matrimonial dispute takes in its swipe even the near and the distant relations of the husband. One can simply refer to the decision in the case of **Preeti Gupta and Anr. V/s. State of Jharkhand and Anr.;** (2010) 7 Supreme Court Cases 667, **Geeta Mehrotra & Anr. V/s.**

State of U.P. & Anr.; 2013 AIR (SC) 181, Neelu Chopra and Anr. V/s. Bharti; (2009) 10 Supreme Court Cases 184 and Kans Raj V/s. State of Punjab; 2000 (5) SCC 207.

8. Bearing in mind these principles if one examines the matter in hand, we are emboldened to state that the allegations in the F.I.R. are so vague and omnibus that even if those are accepted at its face value, no offence can be made out against the petitioner nos. 4 to 6. It only mentions their names without attributing any overt act to them even cursorily. The petitioner no.4 is the married sister of the petitioner no.1 whereas the petitioner nos. 5 and 6 are his distant relatives and all these petitioners have been residing at separate and different places and not at the matrimonial home of the respondent no.2.

9. However the F.I.R. does mention that since after marriage there was a demand for dowry and the respondent no.2 was subjected to ill-treatment on that count. Considering the fact that the petitioner no.1 is the husband and the petitioner nos. 2 and 3 are his parents and she must have been cohabiting with them in the same abode, there is every possibility of the petitioner nos. 1 to 3 having raised demand for money and a possible ill-treatment meted out to her on that count.

10. True it is that the petitioner no.1 has been making a grievance that the fact of the respondent no.2 having married once and having obtained divorce was not disclosed to him and he has filed a

proceeding for annulment of the marriage on that count. The law will take its own course. The fact remains that there has been some bitterness in the family and the respondent no.2 has lodged a complaint with a specific allegation about demand for money and ill-treatment meted out to her on that count, which needs to be inquired into and allowed to reach to a logical conclusion. Taking into account all these aspects, in our considered view the case of the petitioner nos. 4 to 6 is squarely covered by category nos. 1, 3 and 7 of the **State of Haryana and Ors. V/s. Bhajan Lal and Ors.; AIR 1992 SUPREME COURT 604.** The petition therefore deserves to be allowed but only partly to their extent.

11. The writ petition is partly allowed. The crime registered against the petitioner nos. 4 to 6 is quashed and set aside and the rule is made absolute in terms of prayer Clause 'C' to their extent.

12. The writ petition to the extent of the petitioner nos. 1 to 3 is dismissed.

13. The fees of the learned advocate for the respondent no.2 appointed by this Court is quantified at Rs.3000/- and shall be paid to him through the High Court Legal Services Authority.

(MANGESH S. PATIL, J.)

(T.V. NALAWADE, J.)