IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 282 OF 2019

1. Shama Hanumant Munde-Jadhavar, .. Petitioners
Age. 54 years, Occ. Service,
Presently working as Town Planning Officer,
Town Planning Department,
Central Building, Pune-1.

2. Ashok Bhanudas Munde
Age.48 years, Occ. Service,
R/o. Sant Tukaram Nursing College,
Mondha Kalegaon Road, Ahmedpur,
Tq. Ahmedpur, Dist. Latur.

3. Ranjana Ashok Munde
Age. 30 years, Occ. Housewife,
R/o. As above.

4. Dilip Bhanudas Munde
Age. 51 years, Occ. Service,
R/o. Datta Dham, Wasmat Road,
Parbhani, Dist. Parbhani.

5. Padminibai Bhanudas Munde,
Age. 80 years, Occ. Nil,
R/o. Post Colony, Juna Pedgaon Road,
Parbhani, Dist. Parbhani.

Versus

1. The State of Maharashtra .. Respondents
Through its Police Inspector,
Police Station, Gangakhed,
Tq. Gangakhed, Dist. Parbhani.

2. Godawari Rajkumar Munde
Age. 36 years, Occ. Service,
R/o. Post Colony, Juna Pedgaon Road,
Parbhani, Tq. & Dist. Parbhani.

Mr. K.D. Bade Patil, Advocate for the petitioners.
Mrs.V.S. Choudhari, APP for respondent/State.
Mr. S.V. Suryawanshi h/f. Mr. D.P. Munde, Advocate for respondent No.2.

CORAM : T.V. NALAWADE & S.M.GAVHANE,JJ.
DATED : 20-11-2019

ORAL JUDGMENT : [PER : S.M. GAVHANE,J.] :-

. Rule. Rule made returnable forthwith. Heard finally with the consent of learned Counsels appearing for the parties.

2. By this petition under Articles 226 and 227 of the Constitution of India and section 482 of the Code of Criminal Procedure, the petitioners – accused against whom and husband of respondent No.2, Crime No.82 of 2018 for the offences punishable under sections 498-A, 323 and 504 read with section 34 of the Indian Penal Code has been registered at Gangakhed Police Station, Dist. Parbhani, have prayed to quash and set aside the FIR and the charge sheet bearing RCC No. 127 of 2018, pending on the file of the JMFC, Court No.3, Gangakhed, Dist. Parbhani.

3. Mr. Bade Patil, learned Counsel for the petitioners, when this

Court expressed that this Court is not inclined to grant any relief to petitioner Nos. 1,2 and 5, on instructions, has stated that petitioner Nos. 1,2 and 5 are withdrawing the petition and to their extent the petition may be disposed of as withdrawn.

4. Mr. Bade Patil, learned counsel for the petitioners further submitted that there is no dispute that respondent No.2 – informant was married to Rajkumar Munde on 10.05.2003. Thereafter, she went to the house of her husband for cohabitation and she has two children from the said wed-lock. According to the learned counsel, there is no dispute that the informant is sister-in-law (brother's wife) of petitioner No.1 and sister-in-law of petitioner Nos. 2 to 4 and daughter-in-law of petitioner No.5. It is submitted that respondent No.2 alleges in the FIR that for a period of one year from her marriage, she was cohabited properly and thereafter petitioner No.1 who is working as a higher officer in Pimpri Chinchwad Municipal Corporation had taken admission of the informant in Nursing College for Diploma of G.N.M. and he had made arrangement of the informant's residence in ladies hostel. It is alleged that petitioner No.1 had allotted informant heavy house hold work and she used to insult the informant. So also petitioner No.1 made complaint to husband of informant about illicit relation of the informant with Hanumant Jadhavar

and petitioner No.1 had beaten and driven her out of the house. It is alleged that the informant completed nursing course. When she visited Parbhani, her mother-in-law – petitioner No.5, brother-in-law and sister-in-law – petitioner Nos. 1 to 4 ill-treated her on various grounds and petitioner No.2 – her brother-in-law tried to outrage her modesty and he used to call her for physical relationship. After she refused said demand of petitioner No.2, he instigated Rajkumar – husband of the informant for assaulting her. It is submitted that the allegations made against the petitioners about illtreatment to the informant are vague. Petitioner Nos. 2 and 3 are residing at Ahmedpur, Dist. Latur and they are not residing in Parbhani, where the informant was cohabiting with her husband. No specific roll is attributed to petitioner No.4. According to learned Counsel for the petitioners the impugned FIR and the charge-sheet against the petitioners are amounting to misuse of process of law and therefore they are required to be quashed and set aside against the petitioner Nos.3 and 4 by allowing the writ petition.

5. Mr S.V. Suryawanshi, learned Counsel for respondent No.2 and Mrs. V.S. Choudhari learned APP for respondent No.1/State submitted that the offences alleged in the FIR are made out against the petitioners on the basis of allegations in the FIR and therefore there is no ground to

quash and set aside the FIR and the charge-sheet against the petitioners as submitted by learned Counsel for the petitioners.

6. We have carefully considered the submissions made by learned Counsels appearing for the petitioners, respondent No.2 and learned APP. We have also gone through the documents produced along with the petition by the petitioners, affidavits of respondent No.2 and documents produced by her.

7. It appears that petitioner No.1, who is accused No.2 had filed application Exh.30 before the learned Magistrate to discharge her as per section 239 of the Code of Criminal Procedure and said application was rejected by the learned Magistrate. There is no dispute about relationship of respondent No.2 with the petitioners as referred earlier.

8. On perusal of the FIR lodged by respondent No.2 on 06.04.2018, it is seen that she was married to Rajkumar Bhanudas Munde on 10.05.2003. It is alleged that she was treated properly for a period of one year by people from her in-laws house. It is alleged that when the informant was residing at Pune, petitioner No.1, who is sister-in-law of the informant, said to informant that the informant is having illicit relations

with the husband of petitioner No.1 and as such she was driven out of the house by petitioner No.1. Further it is alleged in the FIR that after completion of course at Pune, when the informant came to Parbhani, her mother-in-law, brother of her husband and wife of brother's husband, started harassing her on some reasons and her husband's brother – petitioner No.2 – Ashok was insisting her for physical relation and after refusal he was telling her mother-in-law and husband bad about her. So also her husband and mother-in-law were assaulting her on his instigation. It is further seen from the FIR that petitioner Nos.1 to 4 caused mental and physical cruelty to her and were beating her and therefore on 30.03.2018, she lodged complaint before the Female Protection Committee, Gangapur, Dist. Parbhani.

9. Above referred allegations made in the FIR against petitioner Nos.3 and 4 are vague and they are not sufficient to attract alleged offence of cruelty against these petitioners. Petitioner No.3 is residing at Ahmedpur, Dist. Latur and she is not residing at Parbhani. Therefore, continuation of FIR and the charge-sheet against these petitioners would amount to abuse of process of law. Therefore, we are of the view that the petition needs to be allowed and FIR and the charge-sheet i.e. RCC No.127 of 2018 to the extent of petitioner Nos. 3 and 4 need to be

quashed and set aside. Therefore, following order is passed :-

O R D E R

1. The petition of the petitioner No.1–Shama Hanumant Munde-Jadhavar, petitioner No.2–Ashok Bhanudas Munde and petitioner No.5-Padminibai Bhanudas Munde is disposed of as withdrawn.

2. The petition of petitioner No.3-Ranjana Ashok Munde and petitioner No.4-Dilip Bhanudas Munde is allowed.

3. Petitioner Nos. 3 and 4 are granted relief in terms of prayer clause (B) of the petition..

4. Rule made absolute in aforesaid terms.

[S.M.GAVHANE,J.] **[T.V. NALAWADE,J.]**

snk/2019/nov19/crwp282.19