

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

CRIMINAL WRIT PETITION NO. 320 OF 2019

1. Jyotiram Mohanrao Girwalkar
Age; 34 years, Occ; Business,
2. Mohan Balwantrao Girwalkar,
Age; 62 years, Occ; Nil,
3. Ushabai Mohanrao Girwalkar
Age; 56 years, Occ; Household,
4. Dnyaneshwar Uttam Giarwalkar,
Age; 58 years, Occ; Business,
5. Sushila Uttam Girwalkar,
Age; 54 years, Occ; Household,

Resident of Respondent Nos. 1 to 5
all R/o; Paru Nagar, Murud,
Tq. & Dist. Latur.

6. Manjusha Balkrushna Bhat
Age; 32 years, Occ; Household,
R/o; Near Vishvkarma Mandir,
Behind Bidwe College, Latur.
Tq. & Dist. Latur.

PETITIONERS

(Original Accused)

VERSUS

1. The State of Maharashtra,
Through Police Officer,
Paranda Police Station,
District; Osmanabad.
2. Shushma w/o Jyotiram Girwalkar,
Age; 30 years, Occ; Nil,
R/o; Mangalwar Peth, Paranda,
Dist. Osmanabad.

RESPONDENTS

(Original Complainant)

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Mr. M.D.Shinde, Advocate for Petitioners
Mr. V.S. Chaudhary, APP for Respondent/State
Mr.K.R. Doke, Advocate for Respondent No. 2

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CORAM : T.V. NALAWADE, &
M.G. SEWLIKAR JJ.

DATE : 10th DECEMBER, 2019

JUDGMENT : (Per M.G. SEWLIKAR, J]

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

2. This is a petition under Article 226 of the Constitution of India and under Section 482 of the Code of Criminal Procedure, 1973, for quashment of the First Information Report No. 248 of 2018 (In short 'F.I.R.') registered at Paranda Police Station, District; Osmanabad for the offences punishable under Sections 498-A, 323, 504, 506 r/w Section 34 of the Indian Penal Code (In short 'I.P.C.'), which is culminated in R.C.C. No. 78 of 2019.

3. Facts giving rise to filing of this petition are that respondent No. 2-the informant married petitioner No. 1 on 28.4.2008 at Latur. Out of the wedlock a daughter namely 'Arya' aged 8 years and a son namely 'Shree' aged three years were born. Till the birth of 'Arya', the petitioners treated respondent No. 2-the informant well and thereafter, they started doubting her chastity saying that 'Arya' was not born from petitioner No. 1. After six years of birth of 'Arya', son 'Shree' was born. Despite that, ill-treatment was continued to be meted out to the informant. When respondent No. 2-the informant had gone to her matrimonial place for the festival of 'Dipwali', the petitioner No. 1 asked her to bring gold of 5 tolas and Rs. 2,00,000/- for purchasing four wheeler. She refused to do so. On that count, the petitioner No. 1 and his mother petitioner No. 3 beat her with fists and blows. Thereafter, petitioner No. 1 dropped her to her matrimonial place. On 30.8.2018, all the petitioners came to her matrimonial place and beat her with fist and blows and repeated the demand of

5 tola gold and cash of Rs. 2,00,000/-.
Thereafter, she lodged F.I.R., on the basis of which crime has been registered against the petitioners.

4. During the pendency of this petition, charge-sheet came to be filed. Therefore, petitioners were permitted to carry out the amendment for quashment of the charge-sheet.

5. Heard Mr. M.D.Shinde, learned counsel for the Petitioners, Mr. V.S. Chaudhary, learned APP for Respondent/State and Mr.K.R. Doke, learned counsel for Respondent No. 2 (informant).

6. Learned counsel for petitioners sought to withdraw the petition in respect of petitioner Nos. 1 to 3.

7. Petitioner No. 4 is the uncle of petitioner No. 1, petitioner No. 5 is the aunt of petitioner No. 1 and petitioner No. 6 is the sister of petitioner No. 1. The petitioners have

produced documentary evidence on record to show that they are not residing at matrimonial place of petitioners and respondent No. 2. The petitioners have produced ration card, indicating that petitioner Nos. 2 and 3 are residing at Murud, District; Latur, separately. They are not living with petitioner Nos. 1 to 3. Their ration card is separate. Petitioner No. 6 is married sister of petitioner No. 1. She has been living with her husband. Allegations against petitioner Nos. 4 to 6 are general in nature. No specific allegation is attributed to the petitioner Nos. 4 to 6. Allegations are specific against petitioner Nos. 1 to 3. In view of this, even if allegations are accepted at their face value, no offence can be said to have been made out against the petitioners Nos. 4 to 6. In this view of the matter, we are inclined to allow the petition to the extent of petitioner Nos. 4 to 6. In view of this, following order is passed :

ORDER.

I. The petition of petitioner Nos. 1 to

3 is disposed of as withdrawn.

II. The petition of Petitioner Nos. 4, 5 and 6 is allowed.

III. Relief is granted to Petitioner Nos. 4, 5 and 6 in terms of prayer clauses (B) and (B-1).

IV. Rule is made absolute in those terms.

(M.G.SEWLIKAR)
JUDGE

(T.V.NALAWADE)
JUDGE

mahajansb/