

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

CRIMINAL WRIT PETITION NO. 854 OF 2019

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| <p>1 Sau. Jyoti w/o. Annasaheb Shevkar,
Age 37 years, Occu. Housewife,
R/o. Sinnar, Taluka Sinnar,
District Nashik.</p> <p>2 Sau. Kalyani w/o. Nitin Undhe,
Age 32 years, Occu. Housewife,
R/o. Matapur, Taluka Shrirampur,
District Ahmednagar.</p> <p>3 Sau. Arundhati w/o. Himat Takalkar,
Age 30 years, Occu. Housewife/ Advocate,
R/o. Ghotan, Taluka Shevgaon,
District Ahmednagar.</p> | <p>PETITIONERS
(Accused
.. No. 5, 6 and 4)</p> |
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VERSUS

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| <p>1 The State of Maharashtra
Through The City Police Station,
Shrirampur, Taluka Shrirampur,
District Ahmednagar.</p> <p>2 Sau. Rupali w/o. Amol Bhokare,
Age 26 years, Occu. Housewife,
R/o. Umbargaon, Taluka Shrirampur,
District Ahmednagar,
At present C/o. Nandini Shivaji Naik,
Pathare Kh., Taluka Rahuri,
District Ahmednagar.</p> | <p>.. RESPONDENTS</p> |
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Mr. Deelip N. Bankar Patil, Advocate for Petitioners.
Mr. D. R. Kale, APP for Respondent No. 1 - State.
Mr. R. R. Karpe, Advocate for Respondent No.2.

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**CORAM : T.V. NALAWADE &
K. K. SONAWANE, JJ.**

DATED : 14th OCTOBER, 2019.

ORAL JUDGMENT :- (Per: K.K. SONAWANE, J.)

1. Rule. Rule made returnable forthwith. Heard finally, with the consent of learned counsel appearing for the parties.
2. The petitioners - original accused No. 5, 6 and 4 preferred present petition under Section 482 of the Code of Criminal Procedure

(Cr.P.C.) seeking relief to quash and set aside the First Information Report (FIR) bearing Crime No. I-333 of 2018 registered at Shrirampur City Police Station, District Ahmednagar, for the offence punishable under Sections 307, 498-A, 323, 504 and 506 read with Section 34 of Indian Penal Code (IPC) and consequently proceeding bearing RCC No. 126 of 2019 pursuant to aforesaid FIR.

3. The prosecution case in short compass is that the first informant – complainant Sau. Rupali w/o. Amol Bhokare, on 20-10-2018, approached to the Police of Shrirampur City Police Station, District Ahmednagar, and ventilated the grievance that her marriage was solemnized on 14-07-2018, with Amol Avinash Bhokare, the brother of present petitioners. The petitioners are the sister-in-laws of complainant – wife. After marriage, complainant-wife joined the company of husband for cohabitation at Umbargaon, Taluka Shrirampur. According to complainant, after 4 to 5 months of marriage, the inmates of matrimonial home started scolding the complainant-wife on account of domestic work i.e. not cooking properly, the marriage ceremony was not performed as per their expectation, etc. The husband and in-laws used to harass and torture the complainant on trifle reasons and also abuse and assault her. The uncle, brother and mother of complainant wife made endeavour to give understanding to the husband and in-laws to behave with complainant in proper manner. But, there was no progress in the behaviour of husband and in-laws. After about two to three months, the husband and in-laws asked her to bring Rs. 2 Lakhs for construction of well and on that count they started harassing her. At

that time, her brother Rushikesh made arrangement of Rs. 50,000/- and paid the same to husband of complainant. Thereafter, all the things were normal for some days. Meanwhile, the complainant begotten a son on 10-09-2018 during wedlock from husband Amol. Therefore, the complainant came to her parents house for some days. When she returned to her matrimonial home, her husband, in-laws and present petitioners abused and beaten-up her for the reason that when they came to see the child at her parent's house at that time they did not receive proper treatment from her parents. There was continuous maltreatment and harassment to complainant. She disclosed her ordeals to mother and brother, and therefore, her uncle Narayan Maruti Shinde made endeavour to give understanding to the husband and in-laws etc. It has been contended that after about a year, her father-in-law met with an accident, but they all started blaming the complainant for occurrence of such mishap. They ill-treated and abused the complainant and send her back to parents house. The brother Rushikesh gave Rs. 20,000/- to father-in-law of sister Rupali for medical treatment. But, there was no change in the behaviour of husband and in-laws of complainant- Rupali. There were exchange of legal notices through Advocate between the spouses. However, after amicable settlement, the relatives send the complainant back for cohabitation at her matrimonial home. But, her ordeals did not come to an end. According to complainant, on 18-10-2018 at about 6.00 hours, she made phone call to her mother for greetings on the eve of Dasara festival. But, the husband Amol picked up quarrel with her and also beaten up the son Shlok. On following day i.e. 19-10-2018, the

complainant disclosed about the incident to her brother Rushikesh. Taking umbrage of the same, the husband and in-laws assaulted her by fists and kicks. Thereafter, in-laws caught hold her hand and legs, and her husband Amol made attempt to kill her by throttling. In the incident, she become unconscious. When she regained consciousness, she saw inmates of her matrimonial home were quarreling with the brother Rushikesh, who had been to her house at the relevant time. Due to severe beating and attempt of throttling, the complainant was admitted in Morage Hospital and later-on shifted to Rural Hospital at Shrirampur by her brother Rushikesh. Eventually, she lodged the report to the Police of Shrirampur City Police Station, Ahmednagar, for penal action against the present petitioners as well as husband and in-laws.

4. Pursuant to FIR, the Police of Shrirampur City Police Station, Ahmednagar, registered the crime and set the penal law in motion. Pending investigation, the petitioners moved present application by invoking remedy under Section 482 of the Cr.P.C. for relief to quash and set aside the impugned FIR and consequently proceeding bearing RCC No. 126 of 2019 filed pursuant to aforesaid FIR before learned Magistrate at Shrirampur.

5. Learned counsel for petitioners vehemently submits that there were no physical and mental cruelty to the complainant on the part of petitioners. But, she has filed present false penal proceeding with an *malafide* intention to harass the petitioners. There were no specific allegations about maltreatment and torture meted out to the complainant-wife. The petitioners have no any concern with the marital life of husband and complainant-wife. They have no any reason to

cause interference into the domestic affairs of the spouses. The complainant did not mention any specific instance of maltreatment at the hands of present petitioners. The learned counsel submits that the allegations made in the FIR against all petitioners are vague and general in nature. There was no demand of any kind on the part of petitioners. According to learned counsel the petitioners are married sisters-in-law of complainant and they are residing with their husband at matrimonial homes. They all are residing separately since their marriage. He submits that the present complaint is nothing but an abuse of process of law. It would unjust and improper to compel the petitioners to face the agony of trial. In case, the present penal proceeding is not quashed, it would cause serious prejudice and injustice to the petitioners.

6. The learned APP as well as learned counsel for respondent No. 2-first informant opposed the contentions put-forth on behalf of petitioners. They submit that the allegations of ill-treatment nurtured on behalf of complainant in the FIR discloses commission of crime under Sections 307, 498-A, 323, 504 and 506 read with Section 34 of IPC. The complainant categorically described the episode of her maltreatment and torture at the hands of petitioners. There were allegations of physical and mental torture to the complainant for unlawful demand of amount on the part of petitioners. According to learned counsel for respondent No. 2, the charge-sheet has already been filed before the learned Magistrate. Therefore, it would unjust and improper to entertain the present petition.

7. We have given anxious consideration to the arguments advanced on behalf of both sides. Perused the FIR and other relevant documents placed on record. In regard to the allegations nurtured against the present petitioners, we find that all the allegations cast on behalf of complainant - wife against present petitioners are totally vague and general in nature. There were no specific allegations attributing overt-act of these petitioners to maltreat and harass the complainant-wife. The detail particulars also not given in the FIR about participation of petitioners for their act of cruelty to the complainant on account of demand of money or domestic work etc.. The allegations about cruelty at the hands of petitioners are found omnibus and sweeping in nature. The allegations made against these petitioners on behalf of complainant are not sufficient to attribute ingredients of cruelty as envisaged under Section 498-A of the IPC. The petitioners are married sisters-in-law of complainant and they are residing with their husband at matrimonial homes. They are residing separately from the complainant and her husband. They have no any reason to cause interference into the domestic affairs of the spouses. Therefore, it cannot be perceived that these petitioners have reason to cause interference in the marital life of spouses. It would fallacious to appreciate that they are the beneficiaries from the marital discord between the spouses.

8. At this juncture, the question that arises, whether the FIR registered against petitioners can be quashed and set aside by exercise of powers under Section 482 of Cr.P.C. It is worth to mention that the Honourable Apex Court in the case of - *Kansraj Vs. State of Punjab and others* reported in *(2000) 5 Supreme Court Cases, 207* observed that,

"a tendency has, however, developed for roping in all relations of the in-laws of the deceased wives in the matters of dowry deaths which, if not discouraged is likely to affect the case of the prosecution even against the real culprits. In the cases, where accusations are made, the overt-acts attributed to persons other than husband, are required to be proved beyond reasonable doubt. Their Lordships of Apex Court further observed that, "in their over-enthusiasm and anxiety to seek conviction for maximum people, the parents of the deceased have been found to be making efforts for involving other relations which ultimately weaken the case of the prosecution even against the real accused."

9. In the case of - **Preeti Gupta and another Vs. State of Jharkhand and another,** reported in **(2010) 7 Supreme Court Cases 667,** it has been delineated that *ultimate object of justice is to find out truth and punish the guilty and protect the innocent. A serious relook of the entire provision of Section 498-A of Cr.P.C. is warranted by the legislature. It was observed that the exaggerated versions of the incidents are also reflected in a very large number of complaints.*

10. Likewise, in the case of - **Arnesh Kumar Vs. State of Bihar and another,** reported in **(2014) 8 Supreme Court cases, 273,** the Honourable Apex Court elucidated the fact that, *"Section 498-A of IPC is a cognizable and non bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provisions."*

11. It is worth to mention that the Honourable Apex Court in the

case of *Madhavrao Jiwaji Rao Scindia and another Versus Sambhajirao Chandrojirao Angre and others*, reported in *AIR 1988 SC 709*, categorically elucidated in paragraph No. 7 as under:

"7. The legal position is well-settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilized for any oblique purpose and where in the opinion of the court chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage."

12. The Honourable Apex Court in the case of *State of Haryana and others Vs. Ch. Bhajan Lal and others* reported in *MANU/SC/0115/1992 : 1991(1) RCR(Cri), 383 (SC)* held that "*where the proceedings is instituted with an ulterior motive or were the allegations made in the complaint are absurd and improbable, the Court would be within its power to quash the complaint/FIR*". Moreover, if the allegations in the FIR against the petitioners are taken at their face value and accepted the same in its entirety would not constitute any offence or make out case against petitioners, in such circumstances, there would not be any propriety to allow the prosecution to proceed further into the matter.

13. In the light of aforesaid expositions of law, in the instant case, it would be unjust and improper to allow the prosecution to proceed further against petitioners. It would be an futile efforts and would cause injustice to them, if they are compelled to face agony of trial before criminal Court. It would also dissipate the precious time of Court of law as the possibility of their ultimate conviction is totally bleak. The ends of justice would be served by ensuring that the petitioners may not be forced unnecessarily to go on litigation before the Criminal Court. Hence, penal proceeding initiated against petitioners deserves to be quashed and set aside. Therefore, we proceed to pass following order :

ORDER

- i. The Criminal Writ Petition is allowed.
- ii. The penal proceeding initiated against petitioners bearing FIR No. I-333 of 2018, for the offences punishable under Sections 307, 498-A, 323, 504 and 506 read with Section 34 of IPC, registered with Shrirampur City Police Station, District Ahmednagar, and consequent charge-sheet bearing RCC No. 126 of 2019 pending before the learned Judicial Magistrate First Class (Court No. 1) at Shrirampur, is ordered to be quashed and set aside to their extent only.
- iii. Rule is made absolute in terms of prayer clause "B".
- iv. The Criminal Writ Petition is disposed of in above terms. No order as to costs.

Sd./-

[K. K. SONAWANE]
JUDGE

Sd./-

[T.V. NALAWADE]
JUDGE