

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

962 CRIMINAL WRIT PETITION NO.1208 OF 2018

1. Tukaram Sambhaji Hake,
Age 39 years, Occu. Agri.,
R/o Umatwadi, Tq. Gangakhed,
Dist. Parbhani.
 2. Parvatibai Sambhaji Hake,
Age 71 years, Occu. H.H. & Agri.,
R/o Umatwadi, Tq. Gangakhed,
Dist. Parbhani.
 3. Dnyaneshwar Sambhaji Hake,
Age 41 years, Occu. Agri.,
R/o Umatwadi, Tq. Gangakhed,
Dist. Parbhani.
 4. Mangal Dnyaneshwar Hake,
Age 29 years, Occu. H.H. & Agri.,
R/o Umatwadi, Tq. Gangakhed,
Dist. Parbhani.
 5. Muktabai Mahadev Surnar,
Age 40 years, Occu. H.H. & Agri.,
R/o Sangvi (Sunegaon), Tq. Ahmedpur,
Dist. Latur.
 6. Bhagyashri Murlidhar Eamde,
Age 32 years, Occu. H.H. & Agri.,
R/o Limbewadi, Tq. Gangakhed,
Dist. Parbhani.
 7. Vijaymala Giridhar Yamgar,
Age 31 years, Occu. H.H. & Agri.,
R/o Hanmantwadi, Tq. Udgir,
Dist. Latur.
- ... **Petitioners.**

Versus

1. The State of Maharashtra,
Through the Police Inspector,

Pimpaldari Police Station,
Tq. Gangakhed, Dist. Parbhani.

2. Deubai Shivaji Surnar, (Deutai Tukaram Hake),
Age 30 years, Occu. Household,
R/o Umatwadi, Tq. Gangakhed,
District Parbhani.
At presently residing at :
Dhurve Complex, 1826,
Pradakshana Road, Vitthal-Rukmini
Chowk, Alandi Devachi,
Tq. Khed, District Pune. ... **Respondents.**

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Mr. G.L.Kedar, Advocate for Petitioner.
Mr. S.J.Salagare, APP for Respondents-State.
Mr. A.R.Salve, Advocate for Respondent No.2.
Mr. S.R.Zambre, Advocate for Respondent (appointed).
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**CORAM : T.V.NALAWADE AND
MANGESH S. PATIL, JJ.**

DATE : 26th March, 2019

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith. By consent,
heard both the sides for final disposal.
2. Present Writ Petition is for quashing of the FIR No.108
of 2018, registered with Pimpaldari Police Station for offences
punishable under Section 498-A, 323 read with Section 34 of
IPC.
3. This Court has carefully gone through the allegations

made in the FIR. The marriage took place of the first informant with petitioner No.1 on 24.05.2010. The allegations are made that after one and half year of the marriage, ill-treatment was given to her. She has given birth to a male child. The allegations are made that on 05.05.2016, she had made an application to express the grievance but after that there was compromise and she returned to the matrimonial house. It is further alleged that she was driven out of the matrimonial house in February 2018 and she was asked to bring Rs.5,00,000/- from her parents as they wanted to purchase a car. The allegations are made that all the present petitioners had given her beating and they had driven her out of matrimonial house.

4. Petitioner Nos.5 to 7 are married sisters of petitioner No.1. Petitioner Nos.1 to 4 are living together. Petitioner No.4 Mangal is the wife of petitioner No.3 Dnyaneshwar and Dnyaneshwar is the real brother of Tukaram. Parvatibai is the Mother of Tukaram. In view of the nature of role which can be played by the wife of the brother of the husband, this Court holds that in view of the nature of the allegations made against Mangal and also against the married sisters of the husband, relief needs to be given to them. The learned

counsel for the applicants, on instructions, submits that he wants to withdraw the proceeding of other three petitioners.

5. The learned counsel for first informant placed reliance on observations made by Apex Court in the case reported as **(2015) 3 Supreme Court 233 (Taramani Parak Vs. State of M.P. And others)**. There cannot be a dispute over the propositions made by the Apex Court that the defence cannot be considered at the stage of considering the proceedings for quashing of FIR. In the present matter, the allegations are very vague and of the nature mentioned above. It is not the case that petitioner Nos.5 to 7 had any occasion or opportunity to give ill-treatment to the first informant and there was apparently no role available in respect of the grievance made by the first informant to these petitioners. So the Petition of Petitioner Nos.1 to 3 is disposed of as withdrawn. The Petition of Petitioner Nos.4 to 7 is allowed. Relief is granted to them in terms of prayer clause 'B'.

6. Rule is made absolute in those terms in their favour.

7. Fees of the learned Advocate Mr. S.R.Zambre appointed on behalf of Respondent is quantified as Rs.3,000/ (Rupees

Three thousand), which is to be paid by the High Court Legal Services Sub Committee at Aurangabad.

(MANGESH S. PATIL, J.)

(T.V.NALAWADE, J.)

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vmk/-