

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

CRIMINAL WRIT PETITION NO. 1457 OF 2018

1. Anita Wd/o. Santaram Chavan,
Age: 40 Years, Occu: Agril & Household,
R/o. Mangrul, Tq. Majalgaon,
Dist. Beed.
2. Homsing S/o. Megha Chavan,
Age: 65 Years, Occu: Agril,
R/o. Mangrul, Tq. Majalgaon,
Dist. Beed.

... PETITIONERS

VERSUS

1. The State of Maharashtra,
Through Secretary,
Home Department,
Mantralaya, Mumbai-32.
2. Police Inspector,
Police Station Majalgaon Rural,
Tq. Majalgaon, Dist. Beed.
3. Babu S/o. Bhoju Chavan,
Age: 50 Years, Occu: Agril,
R/o. Mangrul, Tq. Majalgaon,
Dist. Beed.

... RESPONDENTS

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Mr. S. D. More, Advocate for Petitioners.

Mr. M. M. Nerlikar, APP for Respondent Nos.1 & 2.

Mr. S. J. Salunke, Advocate for Respondent No.3.

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

DATE : 12th March, 2019.

JUDGMENT: (Per T. V. Nalawade, J.)

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

2 The petition is filed for relief of quashing of criminal case filed in FIR No.312 of 2018, registered with Majalgaon Rural Police Station, District Beed, for the offences punishable under Sections 384, 504, 506 read with 34 of the Indian Penal Code. The case is given number as R.C.C. No.286 of 2018 and it is presently pending in the Court of learned Judicial Magistrate First Class, Majalgaon.

3 The submissions made and record show that on 20th September, 2018, present Petitioner No.1 had given FIR against Baburao Bhoju Chavan, who is relative of Petitioner No.1 on parent's side that he had misbehaved with her when she was alone in the field and there was insult to her modesty. The incident had taken place at 16:00 hours on 19th September, 2018. The present FIR is given by

Respondent No.3, Babu Bhoju Chavan against the persons by whom the aforesaid report was given on 20th September, 2018. He has contended that on 20th September, 2018 at about 08:00 pm, Petitioner No.1 and Petitioner No.2 entered his house and then Petitioner No.1 demanded Rs.40,000/- from him by saying that if the amount is not given, she would prosecute the matter and she would see to it that Babu Bhoju Chavan is sent to jail. According to Babu Bhoju Chavan as there was a demand of Rs.40,000/-, he approached police on 22nd September, 2018 and gave report. Crime came to be registered for the offences punishable under Sections 384, 504, 34 etc. of the Indian Penal Code against Petitioner Nos.1 and 2.

4 The submissions made and record show that only the inmates of the house of the first informant are mentioned as witnesses and they have given stereotype statements before the police that Petitioner Nos.1 and 2 had entered their house and they had demanded Rs.40,000/- for withdrawal of FIR.

5 It can be said that there was no possibility of withdrawal of such FIR, but it is also surprising that no action was taken by the

police till 22nd September, 2018 against Respondent No.3 of the present matter, Babu Bhoju Chavan. On the contrary, on 21st September, 2018, Petitioner No.1 was again required to approach police as one more incident had taken place in which threats were given to her by Babu Bhoju Chavan and others to force her to withdraw the FIR. Copy of N.C. dated 21st September, 2018 produced on record is not consistent with the allegations that Petitioner No.1 was interested in extracting money from Respondent No.3, Babu Bhoju Chavan.

6 Indian lady does not involve close relative like cousin of her husband in a matter like offence punishable under Section 354 of the Indian Penal Code. Thus, it is clear that only to pressurize the Petitioners, the present report is given. No explanation is given in FIR by Babu Bhoju Chavan as to why in respect of incident dated 20th September, 2018 report was not given immediately to police and why it was given late i.e. on 22nd September, 2018. Thus, the allegations appear to be apparently false and it will be abuse of process of law if the Petitioners are directed to face the trial for such offences.

7 The learned counsel for Respondent No.3 placed reliance on some observations made by this Court in the order made in **Criminal Application No.6141 of 2017** (*Khalil s/o Saif Sayyad Vs. State of Maharashtra and another*). That was with regard to the ingredients of the offences punishable under Sections 384 and 386 read with 511 of the Indian Penal Code. That point is not at all involved in the present matter. In the result, the following order is passed:

ORDER

- I. The petition is allowed.
- II. Relief is granted in terms of prayer clause (B-1).
- III. Rule is made absolute in aforesaid terms.

[MANGESH S. PATIL, J.]

[T. V. NALAWADE, J.]