

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

CRIMINAL WRIT PETITION NO.1558 OF 2018

Mr. Shaikh Mohammad Shaikh Haider Pinjari,
Age 60 years, Occu. Business,
R/o Survey No.237/B, Ganesh Colony Road,
Near Khwajamiya Dargah,
Taluka and District Jalgaon. ... **Petitioner**

Versus

1. The State of Maharashtra,
Through Nimbhora Police Station,
District Jalgaon.
2. Sau. Meena Idris Pinjari,
Age 20 years, Occu. Household,
R/o Nimbhora (Bk), Taluka Raver,
District Jalgaon. ... **Respondents**

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Ms. Rashmi Kulkarni, Advocate for Petitioner.
Mr. P.G.Borade, APP for Respondent-State.
Mr. P.V.Balkhande, Advocate for Respondent No.2.

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

DATE : 26.04.2019

JUDGMENT : (Per Mangesh S. Patil, J.) :-

Heard. Rule. The Rule is made returnable
forthwith. The learned APP waives service for the
Respondent-State. The learned advocate Mr.

P.V.Balkhande waives service for Respondent No.2. With the consent of both the sides the matter is heard finally at the stage of admission.

2. In this petition under Section 226 of the Constitution of India the petitioner who is described as cousin parent-in-law of respondent No.2 is seeking quashment of the FIR in Crime No.61 of 2018 registered with Nimbhora Police Station for the offences punishable under Section 498-A, 354-A, 323, 504, 506 read with Section 34 of the IPC on the basis of a complaint filed by respondent No.2.

3. We have carefully perused the papers. Respondent No.2 lodged the FIR inter alia alleging that since after her marriage on 09.05.2017 she was subjected to ill-treatment on account of insistence of her husband and in-laws to bring money from her parents for buying a car. She alleged that her husband and father-in-law used to beat her. The other in-laws including the petitioner used to visit her matrimonial home intermittently and would insist her to bring money from parents and were

instigating her husband. She alleged that her husband reached her to her parental home in the month of November 2017. For four months she was with her parents. In the month of February 2018 there was an amicable settlement and she resumed cohabitation. She further alleged that her father-in-law was having an ill eye on her and was continuously stalking her. When she made a grievance to her husband he started blaming her instead. She was thereafter assaulted and driven out of the house.

4. Accepting the allegations at their face value it is quite apparent that the petitioner though is related to the husband of respondent No.2 is a distant relative and was not staying in her matrimonial home. Except a bald and isolated statement referring to all the matrimonial relations in the FIR there is absolutely no material or allegation attributing any overt act or giving any particulars about the manner in which the petitioner could have instigated her husband to subject her to cruelty.

5. In this respect, it is also important to note that prior to filing of this FIR, respondent No.2 had approached Women's Grievance Cell at Jalgaon and had lodged a complaint on 23.08.2018. But even in it she had conspicuously omitted to attribute or refer to the petitioner muchless levelling any allegations against him. Again she has also filed a complaint with the Protection Officer under the Domestic Violence Act on 20.10.2018, but even in that complaint any reference to the petitioner is conspicuously absent, leave apart casting any allegations against him.

6. In view of such state of affairs, in our considered view, it is nothing but an attempt on the part of respondent No.2 to implicate the petitioner who obviously has been residing else where, other than her matrimonial home, in all probabilities to wreck vengeance. The case is squarely covered by Category 1, 3 and 7 of the case of ***State of Haryana and Ors. Vs. Bhajan Lal and Ors. ; AIR 1992 Supreme Court 604.*** The Writ Petition deserves to be allowed.

7. The petition is allowed in terms of prayer clause 'A'.
The rule is accordingly made absolute.

(MANGESH S. PATIL, J.)

(T.V.NALAWADE, J.)

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vmk/-