

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

CRIMINAL WRIT PETITION NO. 1624 OF 2018

1. Sahebrao s/o Murhari Bahadure,
Age 40 years, Occ. Labour,
R/o Barkatpura Anandnagar,
Ardhapur, Tq. Ardhapur,
Dist. Nanded.
2. Murhari s/o Bhunangrao Bahadure,
Age 90 year, Occ. Retired Teacher,
R/o Barkatpura Anandnagar,
Ardhapur, Tq. Ardhapur,
Dist. Nanded.
3. Gangasagar w/o Murhari Bahadure,
Age 85 year, Occ. Housework,
R/o Barkatpura Anandnagar,
Ardhapur, Tq. Ardhapur,
Dist. Nanded.
4. Shobha w/o Gautam Aazade,
Age 55 year, Occ. Housework,
R/o. Junnar, Dist. Pune.
5. Chhaya w/o Milind Aazade,
Age 50 year, Occ. Housework,
R/o Chakan, Tq. Khed,
Dist. Pune.

... **Petitioners**

Versus

1. The State of Maharashtra,
Through Police Inspector,
Ardhapur Police Station,
Tq. Ardhapur, Dist. Nanded.
2. Jyoti w/o Sahebrao Bahadure,
Age Major, Occ. Nil,
R/o Barkatpura Anandnagar,

Ardhapur, Tq. Ardhapur,
Dist. Nanded.
At present R/o Jambrun,
Tq. Ardhapur, Dist. Nanded.

... **Respondents**

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Mr. Swapnil Deshmukh, Advocate for the Petitioners.
Mr. S.J. Salgare, A.P.P. for respondent no.1-State.
Mr. S.L. Awchar, Advocate for Respondent No.2

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**CORAM : T.V. NALAWADE &
MANGESH S. PATIL, JJ.**
DATE : 12.03.2019

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

Heard. Rule. Rule is made returnable forthwith. Learned A.P.P. waives service for the respondent no.1-State. Learned advocate Mr. S.L. Awchar waives service for the respondent no.2. With consent of both the sides the matter is heard finally at the stage of admission.

2. In this writ petition under Section 226 of the Constitution of India and Section 482 of the Cr.P.C. the petitioners who are accused in Crime No.I-213 of 2018 registered with Ardhapur Police Station, District Nanded for the offences punishable under Section 498-A, 323, 504, 506 read with Section 34 of the I.P.C. are seeking quashment of the F.I.R. and the crime.

3. After hearing both the sides, when this Court expressed its disinclination to grant any relief to the petitioner no.1, his learned advocate, on instructions, seeks leave to withdraw the petition to his extent.

4. The F.I.R. lodged by the respondent no.2 is to the effect that she was married to the petitioner no.1 on 22.04.2004. She was maintained properly for a year. Thereafter she beget a son. Then he got addicted to liquor. On 09.09.2005 all the petitioners demanded an amount of Rs.50,000/- from her to enable her husband to secure a job. She was abused. Therefore somehow her father managed to pay her husband Rs.50,000/-. Thereafter she beget a daughter in the year 2008. Because of such addiction of the husband she along with the husband and two children migrated to her maternal place at Jambrun where she gave birth to another son. Since thereafter she started staying at Jambrun for few months and at Ardhapur for few months intermittently. Lastly, it is alleged that on 05.07.2017 the petitioner no.1 came home after consuming liquor and started asking her to bring an amount of Rs.10,000/- from her parents. When she declined he assaulted her, abused her and left home and went back to his house at Ardhapur. It is further alleged that on 16.07.2017 her parents in laws i.e. the petitioner nos.2 and 3 came to her house at Jambrun, her mother in law slapped her father, whereas her husband abused and threatened her. The F.I.R. was lodged on 10.10.2018 and the offence was registered.

5. The learned advocate for the petitioners submits that accepting the allegations in the F.I.R. at their face value, there are very many

circumstances which would demonstrate that the respondent no.2 has taken care to somehow implicate the relatives of the husband. The allegations against them are vague and omnibus. There is enormous delay in lodging the F.I.R. Even according to the respondent no.2 she was staying with the husband and children at her maternal place Jambrun. The couple was married way back in the year 2004 and though there was a dispute between the husband and wife on account of former's addiction, there was no apparent reason for his parents or married sisters to indulge in any act which would amount to cruelty. In view of such vague and omnibus allegations the rest of the petitioners cannot be made to face the trial. The parents in law are grand old whereas the sister in laws are married and have been staying at a place of more than 500 kms from the place of residence of the respondent no.2 and therefore the F.I.R. and the crime may be quashed against the petitioner nos.2 to 5.

6. The learned A.P.P. and the learned advocate for the respondent no.2 oppose the petition. They submit that no scrutiny of material is permissible at this juncture. Going by the allegations role is certainly attributed to the petitioner nos.2 to 5 in subjecting the respondent no.2 to cruelty.

7. We have carefully considered the papers. Though the petitioner

nos.2 to 5 have been named in the F.I.R. and even it has been alleged that on 09.09.2005 all the petitioners had demanded her money, except omnibus and vague allegations there is absolutely nothing in the F.I.R. which would demonstrate as to the manner in which the petitioner nos.2 to 5 could be said to have subjected her to any cruelty within the meaning of Section 498-A of the I.P.C. A careful reading of the F.I.R. demonstrates that the entire grievance is being made against the petitioner no.1-husband about his addiction and about the physical and mental torture by him. Only a vague allegation has been made against the petitioner nos.4 and 5 that they used to intermittently come to Ardhapur and abuse and quarrel with her. Similarly, in respect of the episode dated 16.07.2017 it has been alleged that the petitioner no.3 having slapped her father. Barring such vague and bald statement there is not enough material which would be sufficient to implicate the petitioner nos. 2 to 5 for subjecting the respondent no.2 to cruelty.

8. The Supreme Court has time and again reiterated that in such matrimonial dispute there is usually a tendency to rope in all the relatives of the husband and one need to simply refer to the observations in the case of **Preeti Gupta and Anr. V/s. State of Jharkhand and Anr.; (2010) 7 Supreme Court Cases 667**. In view of the caution given by the Supreme Court one need to be careful in scrutinising the material in all such cases. Bearing in mind these trite principles, we are of the considered view that the

allegations against the petitioner nos.2 to 4 are quite vague and omnibus and accepting them at their face value the ingredients for the offences being charged against them cannot be made out. The case is squarely covered by the category nos.1, 3 and 7 of the **State of Haryana and Ors. V/s. Bhajan Lal and Ors.; AIR 1992 SUPREME COURT 604.**

9. The writ petition to the extent of petitioner nos.2 to 5 is allowed in terms prayer clause-B.

10. Leave is granted to the petitioner no.1 and the writ petition is disposed of as withdraw to his extent.

11. The rule is made absolute in above terms.

[MANGESH S. PATIL, J.]

[T.V. NALAWADE, J.]