

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

CRIMINAL WRIT PETITION NO.1713 OF 2018

1. Govind S/o Nivrutti Jarhad,
Age 30 years, Occu. Educated
Unemployed, R/o Shevgaon,
Ta. Shevgaon, Dist. Ahmednagar.
2. Nivrutti S/o Shripati Jarhad,
Age 65 years, Occu. Retired Pensioner,
R/o as above.
3. Lilawati W/o Nivrutti Jarhad,
Age 60 years, Occu. Housewife,
R/o as above.
4. Dnyaneshari W/o Yogesh Khedkar,
Age 29 years, Occu. Housewife,
R/o Kada, Ta. Ashti, Dist. Beed.
5. Geeta W/o Anilkumar Changan,
Age 36 years, Occu. Housewife,
R/o Dudhebawi, Satara, Ta. Phaltan,
District Satara.
6. Anuradha W/o Shekhar Changan,
Age – Major, Occu. Housewife,
R/o as above.
7. Shekhar S/o Vitthal Changan,
Age 31 years, Occu. Teacher,
R/o as above.

... **Petitioners**

Versus

1. The State of Maharashtra,
Through Police Station Officer,
Ashti Police Station, Ta. Ashti,
District Beed.

2. Sunita W/o Govind Jarhad,
Age - Major, Occu. Housewife,
R/o Kerul Road, Kada, Tal Ashti,
District Beed. ... **Respondents**

...
Mr. S.E.Shekade, Advocate for Petitioners.
Mr. S.B.Joshi, APP for Respondent-State.
Mr. R.S.Kasar, Advocate for Respondent No.2.

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

DATE : 09.04.2019

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. R.S.Kasar waives service for Respondent No.2. With the consent of both the sides the matter is heard finally at the stage of admission.

2. The petitioners are seeking quashment of Crime No.136 of 2017 registered with Ashti Taluka Police Station, District Beed for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the

Indian Penal Code and the charge-sheet filed pursuant thereto pending as Regular Criminal Case No.74 of 2018 in the Court of Judicial Magistrate First Class, Ashti, District Beed.

3. Respondent No.2 lodged the FIR on 14.04.2017 inter alia alleging that she was married to petitioner No.1 on 04.03.2014 and thereafter started cohabiting with him. However soon after marriage there was a demand for money for buying a car. She was subjected to ill-treatment, physical as well as mental. Petitioner Nos.2 and 3 are her parents-in-law whereas petitioner Nos.4 to 6 are her sister-in-laws and petitioner No.7 is the husband of petitioner No.6. The marriage of petitioner No.4 was solemnized on 04.06.2015 and since thereafter her in-laws started demanding her gold ornaments. When she expressed her inability she was assaulted and was driven out from the house. Lastly, she alleged that on 14.08.2016 all the petitioners once again repeated their demand for money for buying a car. She was assaulted and was driven out of the house.

4. After hearing both the sides when this Court expressed its disinclination to grant any relief to petitioner Nos.1 to 3, their learned advocate, on instructions, seeks leave to withdraw the petition to their extent.

5. The learned advocate for the petitioners submits that petitioner Nos.4 to 6 are the sister-in-laws. In fact petitioner Nos.5 and 6 are elder to petitioner No.1 and were already married before his marriage and were cohabiting in their matrimonial home at a distance of more than 400 k.m. from the matrimonial home of Respondent No.2. The allegations against petitioner Nos.4 to 7 are vague and omnibus. Every attempt has been made to rope in all the relations of the husband falsely. It is unlikely that when the husband and parents-in-law are around and have been cohabiting with her, the rest of the petitioners could have had any occasion to either raise the demand or subject her to any ill-treatment. Respondent No.2 has been meticulously attributing a specific and precise role to petitioner Nos.1 to 3 but has not been able to make any specific allegation attributing overt act to

petitioner Nos.4 to 7. Only isolated and bald statements have been made that too in respect of only some of them. It would be a misuse of the process of law if they are allowed to face the charge based on such flimsy allegations.

6. The learned APP and the learned advocate for Respondent No.2 strongly oppose the petition. They submit that the investigation has been completed and the Investigating Officer has filed the charge-sheet which implies that there is some material against each of the petitioners including petitioner Nos.4 to 7. The material collected by Investigating Officer may not be scanned meticulously which can happen only during a full fledged trial and the petition may be rejected even in respect of petitioner Nos.4 to 7.

7. We have carefully gone through the papers of the investigation and the one filed with the petition. The Supreme Court time and again has noticed that in cases of this kind where a wife alleges cruelty against the husband and in-laws, it is a common experience that

every attempt is made to implicate all the relations of the husband. It has been so observed by the Supreme Court in various cases like ***Preeti Gupta and another Vs. State of Jharkhand and another ; (2010) 7 Supreme Court Cases 667, Geeta Mehrotra and another Vs. State of U.P. and another ; 2013 AIR (SC) 181, Arnesh Kumar Vs. State of Bihar and another ; AIR 2014 SC 256 and Amit Kapoor Vs. Ramesh Chandra and another ; (2012) 8 SCC 460.*** Bearing in mind these aspects and the observations of the Supreme Court in these cases, if one examines the matter in hand, it is quite clear that the case of petitioner Nos.4 to 7 does fall in Category 1, 3 and 7 of Bhajan Lal's case.

8. A careful perusal of the FIR reveals that though the marriage was solemnized on 04.03.2014 the alleged ill-treatment began only after the marriage of petitioner No.4 on 04.06.2015. The allegations have been omnibus. It is alleged that all the petitioners collectively demanded money and assaulted her on 14.08.2016 and had driven her out. In respect of episode dated 05.03.2017 she has

once again stated that when she was at her parental home all the petitioners arrived there. Petitioner No.1 abused her and thereafter all the petitioners threatened her that they would not allow her to resume cohabitation since she had filed a case in the Court. She then alleged that petitioner No.1 brought her to ground by holding her hair and assaulted her with kicks and fists. Petitioner Nos.2 and 3 also abused and assaulted her. It is then alleged that petitioner Nos.4 to 6 then caught hold her with her hair and dragged her outside and slapped her and petitioner No.7 also abused her. Ex facie the allegations as against petitioner Nos.4 to 7 are as vague and omnibus as it could be. If that was the episode which was the last episode it is also important to note that the FIR came to be lodged after more than a month and eight days. There is absolutely not even cursory explanation attempted to be given in the FIR for the delay.

9. Same is the case with the statements of the witnesses who are her near relations like brothers and parents. They have also been equally vague and omnibus

while attributing the role to petitioner Nos.4 to 7.

10. In this regard it is also important to note that the petitioners have produced the Aadhar cards of petitioner Nos.4 to 7 which apparently show that petitioner Nos.5 to 7 are residents of a distant place and not the matrimonial place of respondent No.2. In our considered view, it would be a sheer abuse of the process of law if the petitioner Nos.4 to 7 are made to face the trial based on such vague and omnibus allegations.

11. The Writ Petition to the extent of petitioner Nos.4 to 7 is allowed in terms of prayer clause 'C'. The rule is made absolute to their extent.

12. The Writ Petition is disposed of as withdrawn to the extent of petitioner Nos.1 to 3 and to their extent the rule is discharged.

(MANGESH S. PATIL, J.)

(T.V.NALAWADE, J.)

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vmk/-