

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

CRIMINAL WRIT PETITION NO. 537 OF 2019

- 1) Santosh s/o Kaluram Mate,
Age; 30 years, Occ; Nil,
- 2) Kaluram s/o Rambhau Mate,
Age; 54 years, Occ; Business & Service,
- 3) Sou. Gumphabai w/o Kaluram Mat e,
Age; 49 years, Occ; Household,
- 4) Rajendra Kaluram Mate,
Age; 27 years, Occ; Private Service,

All 1 to 4 R/o; R.X. 7/1, New Balaji Housing
Society, Balajinagar, M.I.D.C., Waluj,
Aurangabad.

- 5) Puja w/o Samadhan Pavhane,
Age; 24 years, Occ; Household,
 - 6) Samadhan s/o Wishwanath Pavhane,
Age; 26 years, Occ; Nil,
- Both 5 & 6 R/o; Wazar, Tq. Jintur,
At present R/o; Gumpha, Tq. Parbhani.

**...PETITIONERS
(Original Accused)**

V E R S U S

- 1) The State of Maharashtra,
Through Charthana Police Station,
Parbhani.
- 2) Nisha w/o Santosh Mate,
Age; 21 years, Occ; Household,
R/o; C/o; Gajanan Jayram Pavhane,
Hanwat Kheda, Post Kawi, Tq. Jintur,
Dist.- Parbhani.

**...RESPONDENTS
(Respondent No. 2
Orig. Complainant)**

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Shri. A.M. Gholap, Advocate for the Petitioners
Shri S.G. Sangle, A.P.P. for the Respondent No.1/ State
Shri. Sachin Joshi h/o Shri Yeramawar, Advocate for Respondent No. 2
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**CORAM : T.V. NALAWADE &
M.G. SEWLIKAR, JJ.**

Date judgment : 5.03.2020

JUDGMENT : [PER : M.G. SEWLIKAR, J.]

Rule. Rule made returnable forthwith. With consent of the parties, heard finally at the admission stage.

2. The original accused Nos. 1 to 6 have filed this petition under Article 226 of the Constitution of India and under Section 482 of the Code of Criminal Procedure for quashing of the FIR No. 21 of 2019, registered in Charthana Police Station, Tq. Jintur, Dist; Parbhani and the Charge-sheet filed pursuant to the aforesaid F.I.R.

3. It is the case of the prosecution that the respondent No. 2 married petitioner No. 1 on 17.4.2017. The petitioner No. 2 is the father, the petitioner No. 3 is the mother, the petitioner No. 4 is the brother, the petitioner No. 5 is the sister of the petitioner No. 1. The petitioner No. 6 is the husband of the petitioner No. 5.

4. It is alleged in the FIR that the petitioner No. 1 was serving in a Private Sector. The petitioner No.4 Rajesh has Electronic Shop. The Respondent No. 2 was maintained well for some days after the marriage. Thereafter, all the petitioners started saying that she was not good looking and that she had Thyroid. They used to say that she should bring Rs. 10,00,000/- from her parents for starting Medical Store and on that count started beating and abusing her. The petitioner Nos. 2 to 6 used to beat her and used to keep her starved. On 17.11.2017 all the petitioners beat her and dropped her at her maternal place. After some days, her father called the petitioner No. 1, at that time the petitioner No. 1 said to him that the respondent No. 2 would not be maintained until the payment of Rs. 10,00,000/- is made. On 23.12.2018, the petitioner Nos. 1 to 4 came to her maternal place and beat her and her father as the provision of Rs. 10,00,000/- was not made. Thereafter, this FIR was lodged on 26.2.2019.

5. Heard Shri. A.M. Gholap, the learned counsel for the Petitioners, Shri S.G. Sangle, A.P.P. for the Respondent No.1/ State and Shri.Sachin Joshi h/f Shri Yeramwar, the learned counsel for the Respondent No. 2.

6. Shri Ghopal, the learned counsel for the petitioners argued that there is delay in lodging the F.I.R. He submitted that the respondent No. 2 is suffering from incurable disease. He further

submitted that the respondent No. 2 starts laughing incessantly and abruptly calms down. She is suffering from some mental disease too. He submitted that on this count, he has filed a petition under Section 12 of the Hindu Marriage Act for annulment of marriage. He submitted that this petition was filed on 10.4.2018. He argued that allegations against all the petitioners are vague in nature. On the basis of these omnibus allegations the commission of a cognizable offence is not made out against any of the petitioners.

7. Shri Sangle, the learned A.P.P. for the respondent No. 1/State and Shri Joshi, the learned counsel for the Respondent No. 2 contended that the petitioner Nos. 1 to 4 are living together. Specific allegations are made against all the petitioners. Both of them submitted that bare perusal of the F.I.R., indicates the commission of a cognizable offence against the petitioners.

8. On perusal of the F.I.R., it is seen that there are specific allegations against the petitioner Nos. 1 to 4. According to the F.I.R., she was dropped to her maternal place by the petitioner Nos. 1 to 6. She has further alleged that on 23.12.2018 the petitioner Nos. 1 to 4 had been to her maternal place and they beat her for non fulfillment of their unlawful demand of Rs. 10,00,000/- for starting a Medical Store. This clearly shows that specific allegations are made against the petitioner Nos. 1 to 4. The petitioner Nos. 1 to 4 live together. Having

regard to their participation in the incident dated 23.12.2018, we are not inclined to quash the FIR to their extent.

9. So far as, the petitioner Nos. 5 and 6 are concerned, they are not residing at matrimonial place of respondent No. 2. The petitioner Nos. 1 to 4 live at Waluj, District Aurangabad, whereas, the petitioner Nos. 5 and 6 are residents of Wazar, Tq. Jintur, Dist; Parbhani. This clearly shows that the petitioner Nos. 5 and 6 were not living with the petitioner Nos. 1 to 4 at the relevant time. On perusal of the FIR, it reveals that the petitioner Nos. 5 and 6 were not present on the alleged incident dated 23.12.2018. The un-controverted allegations contained in the FIR, do not disclose commission of a cognizable offence against the petitioner Nos. 5 and 6. In this view of the matter, the FIR to the extent of petitioner Nos. 5 and 6 will have to be quashed.

10. In view of the above, the petition is allowed to the extent of petitioner Nos. 5 and 6. In view of this following order is passed :

ORDER

- 1) Petition of petitioners No. 1 to 4 is dismissed.
- 2) Petition of petitioners No. 5 and 6 is allowed.
- 3) Relief is granted to petitioners No. 5 and 6 in terms of prayer clauses (B) and (BB).

- 4) Rule is made absolute in above terms.

(M.G. SEWLIKAR, J.)

(T.V. NALAWADE, J.)

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