

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

CRIMINAL WRIT PETITION NO. 1450 OF 2019

- 1) Balaji s/o Gangaram Jogdand,
Age; 33 years, Occ; Gramsevak,
 - 2) Gangaram s/o Shankar Jogdand,
Age; 70 years, Occ; Pensioner,
 - 3) Rukhminibai w/o Gangaram Jogdand,
Age; 68 years, Occ; Agril,
 - 4) Sandip s/o Gangaram Jogdand,
Age; 25 years, Occ; Education,
 - 5) Sahebrao s/o Gangaram Jogdand,
Age; 30 years, Occ; Education,
- All R/o; Shembalpimpri, Tq. Pusad,
District; Yawatmal.

**...PETITIONERS
(Orig. Accused)**

V E R S U S

- 1) The State of Maharashtra,
Through the Police Station Sonkhed,
Tq. Loha, Dist. Nanded.
- 2) Jyoti d/o Satva Waghmare,
Age; 25 years, Occ; Gramsevak,
R/o; Penur, Tq. Loha, Dist; Nanded.

**..RESPONDENTS
(Resp. No. 2 is
Original
Complainant)**

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Shri. Shashikant E. Shekade, Advocate for the Petitioners
Shri R.D.Sanap, learned A.P.P.for the Respondent No.1
Shri. G.G. Suryawanshi, Advocate for Respondent No.2
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**CORAM : T.V. NALAWADE &
M.G. SEWLIKAR, JJ.**

DATE : 6th FEBRUARY, 2020

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

Rule. Rule is made returnable forthwith. With the consent of the parties, heard finally.

2. This is a writ petition filed under Article 226 of the Constitution and under Section 482 of the Code of Criminal Procedure, for quashing of the First Information Report No.109 of 2017, registered with Police Station Sonkhed on 9.9.2017 and the R.C.C. No. 22 of 2018, pending before the learned Judicial Magistrate First Class, Loha for the offences punishable under Sections 420, 500 read with Section 34 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act.

3. Facts giving rise to this petition are that the respondent No. 2 is working as Gramsevak, Panchyat Samiti, Shahapur, District Thane. The petitioner No. 2 is the father, the petitioner No. 3 is the mother, the petitioner Nos. 4 and 5 are the brothers of the petitioner No. 1.

4. It is alleged that by the respondent No. 2 that on 21.2.2017 the petitioner No. 1 along with his relatives had come to Umerkhed, District Yavatmal, with the proposal of marriage. The respondent No. 2 was approved by the petitioners and since the respondent No. 2 had

also approved the petitioner No. 1, they decided to get married and therefore on 24.3.2017, engagement ceremony was performed at Penur, between 1.00 p.m. and 2.00 p.m. This ceremony was attended by all the petitioners and from the side of the respondent No. 2, her parents, brothers, sisters and others were present. The petitioners, at the time of engagement ceremony, said that the date of the marriage would be communicated later. The respondent No. 2 and her parents waited for two months for the communication from the petitioners. Thereafter, her father, her maternal uncle Vankati Sontakke, her brother-in-law Shivaji Sontakke had been to the petitioner No. 1 in the month of April, 2017, for fixing the date of the marriage. At that time all the petitioners said to them that they had spent Rs. 18,00,000/- for the construction of the house and the petitioner No. 1 would marry the respondent No. 2 only if dowry of Rs. 5,00,000/- was paid. It is alleged that the petitioner Nos. 1 to 5 cheated the respondent No. 2, by refusing to marry even after performing engagement ceremony. Because of the refusal by the petitioners to marry the respondent No. 2, she is facing ignominy. Therefore, the F.I.R. was lodged on 9.9.2017 against the petitioners.

5. Heard, Shri. Sheshikant E. Shekade, the learned counsel for the Petitioners, Shri R.D.Sanap, learned A.P.P. for the Respondent No.1 and Shri. G.G. Suryawanshi, the learned counsel for Respondent No.2 .

6. Shri Shekade, the learned counsel for the petitioners submitted that allegations against the petitioners are vague in nature. It is vaguely alleged by the learned counsel for the petitioners that the petitioners demanded Rs. 5,00,000/- as dowry. He submitted that there was intention right from beginning not to marry the respondent No. 2. Because of change in the behaviour of the respondent No. 2, both parties denied to get married. Only to harass the petitioners this F.I.R. has been filed.

7. It is an admitted fact that the engagement ceremony was performed on 24.3.2017 and the petitioner No. 1 and the respondent No. 2 got engaged. It is further seen from the F.I.R. and the statements of the witnesses that the petitioners did not fix the date of the marriage for almost two months. Thereafter, the father of the respondent No. 2 approached the petitioners, the petitioners said that the petitioner No. 1 would marry respondent No. 2 only if the dowry of Rs. 5,00,000/- is paid. On perusal of the F.I.R., it is seen that no specific role is attributed to the petitioner Nos. 4 and 5, who are the brothers of the petitioner No. 1. The role of the petitioner Nos. 1 to 3 can easily be discerned from the allegations in the F.I.R. Therefore, the relief cannot be granted to the petitioner Nos. 1 to 3. The learned counsel for the petitioners, therefore sought permission to withdraw the petition to the extent of the petitioner Nos. 1 to 3. Accordingly, the permission is accorded.

8. Since no specific act is attributed to any of the petitioner Nos. 4 and 5, we are inclined to grant relief to the petitioner Nos. 4 and 5. In view of the above, the following order is passed :

ORDER

- 1) Petition to the extent of petitioner Nos. 1 to 3 is disposed of as withdrawn.
- 2) Petition to the extent of petitioner Nos. 4 and 5 is allowed.
- 3) Relief is granted in terms of prayer clause-B.
- 4) Rule is made absolute in those terms.

(M.G. SEWLIKAR, J.)

(T.V. NALAWADE, J.)