

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

Criminal Writ Petition No.1724 of 2019

* Sudamati w/o Haribhau Ughade,
Age 72 years, Occupation : Nil,
R/o Bodkha, Taluka Dharur,
District Beed. .. **Petitioner.**

Versus

- 1) The State of Maharashtra
Through Police Inspector,
Police Station, Kurunda,
Taluka Basmat, District Hingoli.
- 2) Shilabai w/o Kailash Jadhav,
Age Major, Occupation : Household,
r/o At Post Padsona,
Taluka & District Hingoli
At present Tokai Sakhar Karkhana,
Taluka Basmat, District Hingoli. .. **Respondents.**

Shri. S.Y. Shinde, Advocate, for petitioner.
Shri. K.D. Munde, Additional Public Prosecutor, for
respondent No.1.
Shri. R.B. Ade, Advocate, for respondent No.2.

**Coram: T.V. NALAWADE &
M.G. SEWLIKAR, JJ.**

Date: 06 FEBRUARY 2020

ORAL JUDGMENT (Per T.V. Nalawade, J.):

- 1) Rule. Rule made returnable forthwith. Heard
both sides by consent for final disposal.

2) The present proceeding is filed for the relief of quashing of FIR No.5/2019 and the charge sheet filed in this crime which is pending as Sessions Case No.31/2019 in Sessions Court at Basmat, District Hingoli for offences under sections 364A, 120-B, 109,377,325,324,147,148 etc. of the Indian Penal Code. Both the sides are heard.

3) This Court has carefully gone through the F.I.R. given by the wife of Kailash who was forcibly taken away. It is her contention that on 28-12-2018 in her presence four persons including Dilip Ughade took her husband in a jeep away from her residential place. It is her contention that Dilip had given advance of Rs. 5 lakh to Kailash about 10 years back for supplying labour force for sugar cane cutting. According to her, some labours and 20 bullock carts were supplied by her husband but Dilip was not satisfied and he was insisting that his amount should be returned. It is her contention that for recovery of this amount which was claimed to be Rs.28 lakh by Dilip her husband was forcibly taken away. He was detained at some place and thereby the offence is committed.

4) During investigation many persons came to be arrested. Kailash escaped from the place where he was detained and his statement came to be recorded. This Court has carefully gone through the statement of Kailash and it shows that he did not take name of the present petitioner who is said to be the mother of Dilip. It appears that there is some record like correspondence made by the P.S.I. to A.P.I. dated 26-1-2019. In this communication it is informed by the P.S.I. that he had made inquiry with the present petitioner and during inquiry she had disclosed that Kailash had duped her son of Rs.50 lakh. She also stated, according to the P.S.I. that unless the amount of Rs.10 lakh was given, Kailash would not be released. In this communication it was contended that police had recorded this conversation and video recording was also done. On the basis of this communication the prosecution wants to try this lady.

5) The petitioner is made accused in the case which is of the aforesaid nature. If by presuming that she is involved in the crime, inquiry was made with her by police that part of the disclosure made by this lady, which

led to no discovery, cannot be used under any provisions of the Evidence Act against this lady. In view of this position of law this Court holds that nothing can be achieved by asking this lady to face the trial for the aforesaid offences. There are statements of some witnesses but the statements do not show that they had personal knowledge about the involvement of this lady. The statements are to the effect that they heard that Dilip had detained Kailash by forcibly taking him and the present petitioner was also involved in the commission of the offence. In the result, following order :

6) The petition is allowed. Relief is granted in terms of prayer clause (B). Rule made absolute in those terms.

(M.G. SEWLIKAR, J.)

(T.V. NALAWADE, J.)

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