

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1821 OF 2019

1. Mr. Prakash Lalchand Talreja
age 41, occ. Not working
Indian Inhabitant, Residing at
B.K. 880, Room No. 26,
Near Shiv Mandir Section 18,
Ulhasnagar Camp 3
Dist. Thane.
2. Mr. Anil Lalchand Talreja
age 44, occ. Service
Indian Inhabitant, Residing at
B.K. 880, Room No. 26,
Near Shiv Mandir Section 18,
Ulhasnagar Camp 3
Dist. Thane.
3. Mrs. Madhuri Lalchand Talreja
aged 64, occ. Housewife
Indian Inhabitant, Residing at
B.K. 880, Room No. 26,
Near Shiv Mandir Section 18,
Ulhasnagar Camp 3
Dist. Thane.
4. Mrs. Reema Mohan Chugh
aged 42, occ. Working
Indian Inhabitant, Residing at
301, Shiv Sai Sadan CHS
Sambhaji Chowk, Opp Mohan Kirana
Store, Near National College
Ulhasnagar Camp 4,
Dist. Thane.
5. Miss. Sarla Vishindas Kukreja
aged 50, Indian Inhabitant
Residing at Barrak No. 880,

R.No. 23,
Section 18, Ulhasnagar Camp 3
Dist. Thane.

Petitioners

Versus

1. Yogita Prakash Talreja
age 33 years, occ. Beautician
Indian Inhabitant, Residing at
Room No. 2, Indira Nagar Colony,
Opp. Punjabi Saba Hall,
Tarakpur, Ahmednagar.

2. The State of Maharashtra
Ahmednagar

Respondents

Shri S.N. Lale Yelwatkar, Advocate for the petitioners.
Shri S.B. Narwade, APP for respondent No. 2.
Shri V.G. Kodale, Advocate for respondent No. 1.

**CORAM : T.V. Nalawade &
M.G. Sewlikar, JJ.**

DATE : 14th February, 2020.

JUDGMENT : (PER M.G. SEWLIKAR, J.)

1. Rule. Rule made returnable forthwith.
2. By consent, heard both sides for final disposal.
3. This is a petition under Articles 226 and 227 of the
Constitution of India and under Section 482 of the Criminal

Procedure Code for quashing of the First Information Report.

4. Facts giving rise to this petition are that Respondent No.1 is the wife of petitioner No.1. Respondent No.1 got married with petitioner No.1 on 12.04.2009. Petitioner No.2 is the brother, Petitioner No.3 is the mother and Petitioner No.4 is the married sister of Petitioner No.1. Petitioner No.5 is the foster-sister of the father of Petitioner No.1. Respondent No.1 delivered a son in the year 2011 whose name is Rajeev. For the first 4/5 years of marriage, she was treated well. Thereafter, Petitioners No.1 to 4 started causing harassment to the Respondent No.1. The Petitioner No.3 – Madhuri used to say that Respondent No.1 was not good at cooking, upbringing of Respondent No.1 was not good and used to keep her starved. Petitioner No.4 used to come home 2/3 times in a week and used to say to Respondent No.1 that she should bring Rs.5,00,000/- from her parents as Petitioner No.4 wanted to get the ornaments prepared. When she refused to oblige her, Petitioner No.4 beat her. The Petitioner No.1 also used to say that she should bring money from her parents as he wanted to purchase a four wheeler. Because of the harassment, the Respondent No.1 paid them money from time to time. The Petitioner No.2 also used to say that she should bring

money from her parents otherwise she would be driven out of the house. At the time of Diwali of the year 2016, the Respondent No.1 was driven out of the house on account of her failure to bring Rs.5,00,000/- from her parents. After one month, her father and brother attempted reconciliation but these efforts did not yield any result. The Petitioner No.5, who is the foster sister of Petitioner No.1's father, used to instigate the Petitioner No.1 to beat her. In the months of April and May 2017, at the behest of the Petitioner No.4, the Petitioner No.1 beat Respondent No.1. On these allegations, the Respondent No.1 lodged First Information Report on 03.08.2019, on the basis of which, offence under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code has been registered against the Petitioners.

5. Heard Shri S.N. Lale Yelwatkar, learned Counsel for the petitioners, Shri S.B.Narwade, learned A.P.P. for Respondent No.2 and learned Counsel Shri V.G.Kodale for Respondent No.1-Informant.

6. Shri Yelwatkar argued that the Respondent No.1 is leading life of adultery. She had illicit relations with one Dilip Sajnani. The Petitioner No.1 has filed private complaint under

Sections 497, 504, 506, 109, 211 read with Section 34 of the Indian Penal Code against Respondent No.1, the paramour, sister of the paramour and fiancée of sister of paramour of the Respondent No.1. This complaint was made on 04.06.2018 and on getting knowledge of filing this complaint, Respondent No.1 has filed this FIR on 03.08.2019. He submitted that the First Information Report has been filed to give counterblast to this complaint. He further submitted that Petitioner No.1 has filed divorce petition on 08.04.2019 and this FIR is filed on 03.08.2019. This clearly shows that the First Information Report is filed as the Petitioner No.1 has filed complaint under Sections 497, 504, 506, 109, 211 read with Section 34 of the Indian Penal Code and the petition for divorce. He submitted that the allegations against the petitioners are vague. The Petitioner No.3 is residing separately from the Petitioners No.1 and 2, therefore, he requested for quashing of the First Information Report.

8. Learned counsel Shri Kodale submitted that specific allegations are made against the petitioners. The details of the act of cruelty are attributed against each of the petitioners and, therefore, the petition deserves to be dismissed.

9. During the course of arguments, when the learned counsel for the petitioners realised that we are not inclined to grant relief to the Petitioners No.1 and 3, he sought permission to withdraw the petition on behalf of the Petitioners No.1 and 3.

10. So far as the Petitioners No.2 is concerned, vague allegations are made that the Petitioner No.2 used to say that the Respondent No.1 should bring money from her parents. No details are given. No specific amount is mentioned. Therefore, on the basis of this omnibus statement, it cannot be said that any cognizable offence is made out against the Petitioner No.2.

11. Similarly, allegations against the Petitioner No.4 are also vague. She is living separately from other petitioners. It is vaguely mentioned that she would come to home 2/3 times in a week and would demand Rs.5,00,000/- and would beat the Respondent No.1. No details are given.

12. So far as the Petitioner No.5 is concerned, she is not related by blood to the Petitioners No.1 to 4. As per the allegations made in the First Information Report, she is the foster sister of father

of Petitioner No.1. Complaint under Section 498-A of the Indian Penal Code can be filed against the husband or the relatives of the husband. The foster sister of father of the Petitioner No.1 cannot be called as a relative. To maintain a complaint under Section 498-A of the Indian Penal Code, the accused has to be the relative of the husband.

11 In view of the above, if the Petitioners No.2, 4 and 5 are required to face trial, it would be an abuse of the process of the Court. Hence, the petition, to their extent, will have to be allowed.

12 In view of the above, the following order is passed:

[I] Petition of Petitioners No.1 and 3, namely Prakash and Madhuri, is disposed of as withdrawn.

[II] The petition of Petitioner No.2- Anil and Petitioner No.4 – Reema and Petitioner No.5 – Sarla is allowed in terms of prayer clause “B”.

[III] Rule made absolute in those terms.

(M. G. SEWLIKAR)
Judge

dyb

(T. V. NALAWADE)
Judge