

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

CRIMINAL WRIT PETITION NO. 914 OF 2019

- 1) Rani @ Reshma w/o Sattar Shaikh,
Age; 39 years, Occ; Household,
R/o; Near Aniket Hotel Patoda,
Tq. Patoda, District Beed.
- 2) Iram D/o Sattar Shaikh,
Age; 19 years, Occ; Household,
R/o; As above.

...Petitioners

V E R S U S

- 1) The State of Maharashtra,
Through Police Inspector,
Tofkhana Police Station, Ahmednagar,
Tq. and District Ahmednagar.
- 2) Reshma Imran Shaikh,
Age; 25 years, Occ; Nil,
R/o; C/o; Salima Abbas Khan,
House No. 52/6, Sahara Corner
Mukund Nagar Ahmednagar,
Tq. & Dist. Ahmednagar.

..Respondents

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Shri Mahesh S. Bhosale, Advocate for the Petitioners
Shri G.O. Wattamwar, learned A.P.P. for Respondent No. 1
Shri A.R. Tapse, learned Advocate for Respondent No. 2
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**CORAM : T.V. NALAWADE &
M.G. SEWLIKAR, JJ.**

Date :- 01/02/2021

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

1. Rule. Rule made returnable forthwith. With the consent of the parties, heard finally at the admission stage.
2. This writ petition is preferred by the petitioners for quashing of the First Information Report (F.I.R.) No. I-663 of 2019 and the charge-sheet No. I-107 of 2019 under Article 226 of the Constitution of India and under Section 482 of the Code of Criminal Procedure under Section 498-A, 323, 504 and 506 read with Section 34 of the Indian Penal Code.
3. Facts giving rise to this petition are that respondent No. 2 (the informant herein) has lodged FIR on 1.5.2019 against the petitioners/accused alleging therein that she married on 3.1.2019 at Ahmednagar. Petitioner No. 1 is sister-in-law of respondent No. 2 and petitioner No. 2 is the daughter of petitioner No. 1.
4. It is alleged in the FIR that right from the date of marriage, the husband of respondent No. 2 started harassing her saying that respondent No. 2's mother and brother did not perform the marriage well. Food was not of good quality. Relatives were not properly honoured. Dowry was not given. Her husband and her father-in-law used to harass her and beat her. Her husband used to beat her saying that he has married her against his will. It is further alleged that when her husband started demanding

Rs.7,00,000/- for purchasing a four wheeler petitioners, her husband and her father-in-law beat her mercilessly. On 11.02.2019 she was driven out of the house on account of non fulfillment of unlawful demand. On these allegations respondent No. 2 lodged report with Tofkhana police station, Ahmednagar on the basis of which offences punishable under Sections 498-A, 323, 504 and 506 read with Section 34 of the Indian Penal Code have been registered against petitioners and others.

5. Heard Shri Mahesh S. Bhosale, learned counsel for the Petitioners Shri G.O. Wattamwar, learned A.P.P. for Respondent No. 1 and Shri A.R. Tapse, learned counsel for Respondent No.2.

6. Shri Bhosale, the learned counsel for the petitioners submitted that the petitioners are not staying with respondent No. 2 and her husband. They are staying at Patoda, District Beed and in proof of that they have produced Adhar Cards. He further submitted that vague allegations are made against the petitioners. Therefore, no cognizable offence is made out against the petitioners.

7. Shri Wattamwar, learned APP for respondent No. 1 and Shri Tapse, learned counsel for respondent No. 2 argued that specific allegations are made against petitioner Nos. 1 and 2. Shri Tapse, learned counsel for respondent No. 2 further submitted that these are the matters to be taken into consideration at the stage of trial. Petitioners are the

near relatives of respondent No. 2 and therefore, FIR cannot be quashed against them. Shri Tapse, learned counsel for respondent No. 2 placed reliance on the case of **Taramani Prakash Versus State of M.P. & Ors.- 2015 DGLS(SC) 320 (Supreme Court)**.

8. On perusal of the papers annexed with the petition, it is seen that only allegation against the petitioner Nos. 1 and 2 is that both of them were along with the husband of respondent No. 2 and her father-in-law, her elder sister-in-law (wife of elder brother of her husband), another sister-in-law beat respondent No. 2 when her husband started demanding Rs. 7,00,000/- for purchasing a four wheeler. They were insisting on her that this amount should be brought from her parents.

9. These are the vague allegations and on the basis of such vague allegations, it cannot be said that a cognizable offence is made out against the petitioners. No other allegation is made against the petitioners. No details as regards date and time are mentioned in the FIR. Therefore, on the basis of such vague and general allegations, it cannot be said that there is any possibility of conviction.

10. In **Taramani Prakash Versus State of M.P. & Ors.** (cited supra) it has been held by the Hon'ble Supreme Court as under :

"There are allegations against Respondent No. 2 and his parents for harassing the complainant which forced her to leave the matrimonial home. Even now she continues to be separated from the matrimonial home

as she apprehends lack of security and safety and proper environment in the matrimonial home. The question whether the appellant has infact been harassed and treated with cruelty is a matter of trial but at this stage, it cannot be said that no case is made out. Thus, quashing of proceedings before the trial is not permissible."

11. In the decision of the Hon'ble Apex Court, it appears that there were allegations against the relatives of the wife. In the case at hand the allegations are too vague to make out any case against the petitioners.

12. Moreover, petitioners are not residing at matrimonial place of respondent No. 2. Respondent No. 2's husband is the resident of Suryanagar, Ahmednagar, whereas, petitioners are residing at Patoda, District Beed. In the case of **Taramani Prakash Versus State of M.P. & Ors.** (cited supra) it has been observed by the Hon'ble Supreme Court that

"A tendency has, however, developed for roping in all relations of the in-laws of the deceased wives in the matters of dowry deaths which, if not discouraged, is likely to affect the case of the prosecution even against the real culprits."

13. In this view of the matter, continuation of prosecution would be nothing but an abuse of process of law. Hence we are inclined to allow the petition. Therefore, following order is passed :

ORDER

- 1) The Criminal Writ Petition is allowed.

- 2) Relief is granted in terms of prayer clause 'C'.
- 3) Rule is made absolute in those terms.

(M.G. SEWLIKAR)
JUDGE

(T.V. NALAWADE)
JUDGE