

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

CRIMINAL WRIT PETITION NO. 1019 OF 2019

1. Sandip Ramesh Pawar,
Age : 33 Years, Occ. Service,
2. Ramesh Laxman Pawar,
Age : 63 Years, Occ. Nil,
3. Manisha Ranjeet Ahire,
Age : 28 Years, Occ. Household
4. Ranjit Haribhau Ahire,
Age : 35 Years, Occ. Agriculture
5. Deepak Ramesh Pawar,
Age : 31 Years, Occ. Service,

Petitioner Nos. 1 and 2
resident of Dwarka Wadala,
KBH Vidyalya, Nashik.

Petitioner Nos. 3 to 5 R/o Near Nasadi
Bridge, Behind Shrikrishna Hospital,
Shivam Row House No.8,
Nashik.

..PETITIONERS

V E R S U S

1. The State of Maharashtra
2. Archana Sandip Pawar,
Age : 28 Years, Occ. Service,
R/o. 15 Chari, Rahata,
Taluka Rahata,
District Ahmednagar.

.. RESPONDENTS

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Mr. Y. D. Kale h/f Mr. R.R. Karpe, Advocate for the Petitioners
Ms. G. L. Deshpande, Additional Public Prosecutor for the State
Mr. V.P. Narwade, Advocate for Respondent No.2
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CORAM : SURENDRA P. TAVADE, J.
DATE : 03.09.2021

JUDGMENT :

Rule. Rule taken up for hearing with consent of both the parties.

2. The petitioners are challenging the order passed by the learned Judicial Magistrate,(F.C.), Rahata, District Ahmednagar in R.T.C. No. 173 of 2014 dated 15.10.2018, whereby the trial Court rejected the application for discharge of the petitioners. The order of learned Judicial Magistrate First Class, Rahata was confirmed by the learned Additional Sessions Judge, Kopargaon, in Criminal Revision Application No. 2 of 2016. The said order is also impugned in this petition.

The facts giving rise to the present petition can be summarized as under :-

3. The petitioners are prosecuted for the offences punishable under Sections 498-A, 406, 505, 506 read with Section 34 of the Indian Penal Code. By way of private complaint bearing No. 1884 of 2014, the trial Court issued process against the petitioners. Thereafter, respondent No.2(original complainant)

led her evidence. On the basis of said evidence, the trial Court ordered that charge be framed against the petitioners. The said order was challenged before the First Appellate Court by way of Criminal Revision Application No. 2 of 2016, but, the said revision was dismissed.

4. The learned counsel for the petitioners submits that the evidence of respondent No.2 is very cryptic and it does not establish any charge against the petitioners, but the trial Court as well as the First Appellate Court have not considered the evidence of respondent No.2 in proper perspective and wrongly held that there is material to frame the charge against the petitioners. Hence, it is prayed that the order of trial court as well as the First Appellate Court be set aside and the petitioners be discharged from the charge leveled against them.

5. Heard learned counsel for Respondent No.2. He submits that the evidence of respondent No.2 is sufficient to frame charge against the petitioners. The Courts below have rightly held that charge is required to be framed against the petitioners. To appreciate the contentions of the parties, one has to see the evidence of respondent No.2. She deposed that, she married to petitioner No.1 on 28.12.2007. She was treated well for couple of months after the marriage. Thereafter,

petitioner No.1 started causing harassment to her. She further deposes that petitioner No.1 was making grievance that, he was not given household articles and, parents of respondent No.2 have not honoured the petitioner No.1 and his family members in the marriage ceremony. She further deposes that petitioner No.1 demanded Rs.1,00,000/- from her parents. But the said demand was not fulfilled by her parents. She further deposes that one day, petitioner No.1 poured kerosene on himself and also poured kerosene on her body but she poured water on her person and escaped from the attempt of immolation. She went to Harsul Police Station and lodged complaint, but, police did not take any action against the petitioner No.1 and his relatives. She further deposes that the petitioners assaulted her and driven her out of matrimonial house. Her relatives tried to settle the dispute but she was not allowed to enter into the matrimonial house. She alleged that petitioner No.3 asked her to give divorce to petitioner No.1. The petitioners were not ready to take her back in the matrimonial house. She further deposes that she lodged the report with Rahta Police Station but no action was taken by the police against the petitioners. Hence, she issued notice to petitioners through her Advocate and thereafter, she had filed a private complaint. In her cross-examination, she admits that petitioner No.3 married 15 years

prior to her marriage and she resides at Nashik along with her family. She admitted that petitioner No.1 had demanded rupees one lakh for construction of house on 26.02.2008. Therefore, on the same day she had lodged complaint with the police but the copy of the said complaint is not annexed with the private complaint filed by her before learned JMFC Court. She further admits that petitioner No.3 had asked her to give divorce to petitioner No. 1 in the month of April/May 2008. The complaint was filed on 25.06.2014, so there is delay in filing the complaint regarding the alleged acts of petitioner No.3.

6. On the basis of the evidence of respondent No.2 the learned counsel for the petitioners submits that the evidence of respondent No.2 is vague and general in nature, so no offence is made out against the petitioner. To substantiate his point he relied on the ratio laid down in the case of **Chandralekha and others Vs. State of Rajasthan and another** reported in 2013 AIR SC (Cri) 1643, wherein it was held :

“ However, after a careful perusal of the FIR and after taking into consideration the attendant circumstances, we are of the opinion that the FIR lodged by respondent 2 insofar as it relates to appellants 1,2 and 3 deserves to be quashed. The allegations are extremely general in nature. No specific role is attributed to each of the appellants.

Respondent 2 has stated that after the marriage, she resided with her husband at Ahmedabad. It is not clear whether appellants 1,2 and 3 were residing with them at Ahmedabad. The marriage took place on 9.7.2002 and respondent 2 left her matrimonial home on 15.02.2003 i.e. within a period of seven months. Thereafter, respondent 2 took no steps to file any complaint against the appellants. Six years after she left the house, the present FIR is lodged making extremely vague and general allegations against appellants 1,2 and 3. "

7. On going through the evidence, it is *prima facie* established that petitioner No.1 was causing ill-treatment to respondent No.2 for non fulfillment of demand of money. There is no whisper in the evidence of respondent No.2 regarding the alleged acts of petitioner Nos. 2, 4 and 5. She simply alleged that the petitioners were causing ill-treatment to her. Admittedly her marriage took place on 28.12.2007. She stayed in the matrimonial house for about a year. Admittedly, petitioner Nos. 3 and 4 are resident of Nashik. Therefore, it is difficult to accept the evidence of respondent No.2 that petitioner Nos. 3 and 4 used to cause ill-treatment to her. No allegations are made against petitioner Nos. 2 and 5. So, on going through the evidence led before framing of charge, it can be said that there is material against petitioner No.1 to frame

charge against him. But, there is absolutely no material against petitioner Nos. 2 to 5 for framing of charge against them for the offences alleged against them. The trial Court as well as the First Appellate Court have not considered the evidence of respondent No.2 in proper perspective. Her evidence is general and vague in nature against the petitioner Nos. 2 to 5. Even if the said evidence is read as it is, it does not warrant conviction against petitioner Nos. 2 to 5. Therefore, in my opinion, there is no material against petitioner Nos. 2 to 5 for framing of charge against them. Therefore, they are required to be discharged from the Criminal Case R.T.C. No. 173 of 2014. For the above reasons, I proceed to pass the following order :

O R D E R

1. The Writ Petition is partly allowed.
2. The petitioner Nos. 2 to 5 are discharged from Criminal Case R.T.C. No. 173 of 2014 pending in the Court of learned Judicial Magistrate (First Class), Rahata, District Ahmednagar.
3. Their bail bonds stand cancelled.
4. The writ petition to the extent of the petitioner no. 1 is dismissed.

5. The trial to proceed against petitioner No.1, as per the law.

Rule is made absolute to the extent of petitioner Nos. 2 to 5 and rule is discharged against petitioner No.1.

(SURENDRA P. TAVADE)
JUDGE

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