

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

CRIMINAL WRIT PETITION NO. 686 OF 2022

1. Rupesh S/o Ashok Pathre (Husband),
Age : 27 Years, Occu. : Education,
2. Ashok S/o Shamrao Pathre (Father-in-law)
Age : 55 years, Occu. : Service,
3. Rani W/o Ashok Pathre (Mother-in-law)
Age : 48 years, Occu. : Household,
4. Rakesh S/o Ashok Pathre (Brother-in-law),
Age : 24 Years, Occu. : Education,
5. Ketan S/o Ashok Pathre (Brother-in-law),
Age : 22 Years, Occu. : Education,

All R/o. I-26, Flat No. 12, Sara Parivartan,
Harsul Savangi, Dist. Aurangabad.

... Petitioners

Versus

1. The State of Maharashtra
Through Police Inspector,
Bhokardan Police Station,
Bhokardan, Dist. Jalna
2. Aishwarya W/o Rupesh Pathre,
Age : 22 Years, Occu. : Tailor & Parlour,
C/o. Shantaram Koutikrao Ingale,
R/o Shri Balaji Jewellers, Near Balaji Temple,
Tq. Phulambri, Dist. Aurangabad.

... Respondents.

. . .

Mr. V. P. Latange, Advocate for Petitioners.

Mr. R. D. Sanap, APP for Respondent – State.

Mr. Jagdish V. Deshpande, Advocate for Respondent No.2.

. . .

**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATE : 02nd DECEMBER, 2022

JUDGEMENT (ABHAY S. WAGHWASE, J.) :

1. Rule. Rule made returnable forthwith. By consent of parties, heard finally at admission stage.

2. After having heard the learned advocate for the petitioners for a while, when this Court expressed disinclination to grant relief to petitioner Nos.1, 2 and 3, learned advocate, on instructions, seeks withdrawal of the petition to their extent.

3. Leave granted. Petition to the extent of petitioner Nos.1, 2 and 3 is dismissed as withdrawn.

4. By invoking provisions under section 482 of Cr.P.C., the husband, parents-in-law and brothers-in-law have knocked the doors of this court for relief of quashment of FIR and the charge-sheet arising out of FIR at the instance of respondent no.2.-Aishwarya.

5. Allegations in the FIR :-

Informant-respondent no.2 set law in motion alleging that after her marriage with petitioner No.1 on 28.05.2021 she came to reside with him and her parents-in-law. After four months of marriage, husband and in-laws put up a demand of Rs.15,00,000/- for setting up construction material

supplying shop and on such count she was maltreated, beaten and driven out of the house. She has also alleged that her husband and in-laws were also upset for not giving them honour on festivals. With such allegations, FIR came to be registered with Bhokardan Police Station, District Jalna bearing Crime No.133 of 2022.

6. The above complaint is now questioned by present petitioners on the ground that it is abuse of process of law and therefore required to be quashed and set aside by invoking inherent powers of this Court under section 482 of Cr.P.C.

Time and again, Hon'ble Apex Court and the High Courts have reiterated as to under what circumstances the said inherent powers under section 482 of Cr.P.C. should be exercised by High Courts.

As to when powers under Section 482 of Cr.P.C. can be exercised is fairly settled by slew of judgments including ***Inder Mohan Goswami and Anr. Vs. State of Uttaranchal and Ors. ; (2007) 12 SCC 1 and Mahendra K.C. Vs. State of Karnataka and Another ; (2022) 2 Supreme Court Cases 129.***

7. In favour of relief, learned counsel for petitioners would submit that allegations in the FIR are patently false, afterthought and baseless. He submits that there is no material whatsoever defining role played by the petitioners herein. It is pointed out that allegations are either vague, general

or omnibus in nature. According to him, initiation of criminal proceedings itself is an abuse of process of law and with such allegations, petitioners should not be allowed to face trial. It is pointed out that *prima facie* the allegations in the complaint are non-specific, general and vague and moreover, complaint is out of annoyance and with oblique motive to merely harass the entire family of husband. Thus, he prays for grant of relief.

8. On behalf of State, learned APP has opposed and submitted that shortly after four months of marriage, ill treatment commenced at the hands of husband and in-laws. They all jointly maltreated complainant. Taking us through the FIR, it is his submission that it is clear from the FIR that amount of Rs.15,00,000/- was demanded by all petitioners including husband and for not meeting said demand, she was continuously harassed, beaten and abused. Names of parents-in-law, brothers-in-law and the role played by them is clearly reflected in the FIR. Investigation has also revealed their involvement and as such it is his submission that it is not at all a fit case for exercise of powers under section 482 of Cr.P.C. and hence he prays to dismiss the petition.

9. Learned counsel for respondent no. 2 also argued on the said lines as like APP and he would submit that there is mental and physical harassment by all the petitioners. Specific roles played by them are also narrated in the FIR. There was mental and physical harassment for not fulfilling demand of huge amount of Rs.15,00,000/-. There were life threats

by present petitioner no.2 - father-in-law. All petitioners together asked husband to leave her or drive her out from the house and informant was told that they would perform second marriage of petitioner – husband. Therefore, with such allegations and investigation being completed, there is sufficient material to proceed against the petitioners. Hence, he prays to dismiss the petition.

10. We have carefully gone through the FIR at the instance of respondent no.2. It is emerging that after marriage dated 28.05.2021, it is alleged that she was treated properly for few months and thereafter demand of Rs.15,00,000/- for setting up construction material supplying shop was put up. On account of non fulfillment of said demand, she was alleged to be beaten and abused.

11. It is to be noted that after hearing learned counsel for petitioners, when this court expressed its disinclination to consider the petition for grant of relief with regard to present petitioner Nos.1, 2 and 3, on instructions, learned counsel has withdrawn proceeding as regards to them. Therefore, at present we are concerned only with entitlement of relief as regards to petitioner nos.4 - Rakesh Ashok Pathre and 5 – Ketan Ashok Pathre. Both seem to be brothers-in-law and are of young age.

12. On carefully examining the FIR, we have not come across specific

allegations against these two petitioners. What role they played has not been defined in the FIR. They are named along with husband and in-laws alleging that they too joined them in putting up demand of Rs.15,00,000/- and on account of non-fulfillment of the same, she was subjected to physical and mental cruelty. What was the nature of physical and mental cruelty is also not clarified in the complaint.

After going through the charge-sheet, the statements under Section 161 of Cr.PC. are found to be stereotype and monotonous in nature.

Therefore, in our considered opinion, making these two petitioners face trial would impart injustice to them. They will be subjected to unnecessary harassment and making them face prosecution with such quality of material against them in the FIR would be abuse of process of law.

13. In the recent case of ***Kahkashan Kausar alias Sonam and others v. State of Bihar and others*** ; (2022) 6 SCC 599, the Hon'ble Apex Court in para 18 has held that there is growing tendency to rope in entire family, including distant relatives. Therefore, in our considered opinion, in view of the principles laid down in the case of ***State of Haryana and others v. Ch. Bhajan Lal*** ; AIR 1992 SC 604, more particularly clause (7) as reflected in para 108 of the judgment, the case of applicant Nos. 4 and 5 is also of similar nature.

Here, in the case in hand also as like in the facts of the case before the Hon'ble Apex Court, general, omnibus and sweeping allegations are made against the entire family. The Hon'ble Apex Court in the aforesaid case had granted relief of quashment. Here also this is a fit case for exercise of inherent powers and accordingly, we proceed to pass the following order :

ORDER

- I. The petition is partly allowed.
- II. Petition of petitioner Nos.1, 2 and 3 is dismissed as withdrawn.
- III. Petition of petitioner Nos. 4 and 5 is allowed in terms of prayer clauses (B).
- IV. Rule is made absolute in above terms.

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)