

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

CRIMINAL WRIT PETITION NO. 1428 OF 2020

1. Suresh Rangnath Mane,
Age : Major, Occu. Labour,
R/o. Nimgaon (Mayamba),
Tal. Shirur, Dist. Beed. (Brother-in-law)
2. Asha Suresh Mane,
Age : Major, Occu. Household,
R/o. As above. (Wife of Brother-in-law)
3. Sadhana Dipak Gaikwad,
Age : Major, Occu. Household,
R/o. Chinchpur (Ijade),
Tal. Pathardi, Dist. Ahmednagar. (Married sister-in-law)
4. Rangnath Eknath Mane,
Age : 65 years, Occu. Agri.,
R/o. Nimgaon (Mayamba),
Tal. Shirur, Dist. Beed. (Father-in-law)
5. Laxmibai Rangnath Mane,
Age : 60 years, Occu. Household,
R/o. Nimgaon (Mayamba),
Tal. Shirur, Dist. Beed. (Mother-in-law)
6. Narayan Rangnath Mane,
Age : 30 years, Occu. Service,
R/o. Nimgaon (Mayamba) (Husband)
Tal. Shirur, Dist. Beed. **...Petitioners**

Versus

1. The State of Maharashtra
2. Shamal w/o Narayan Mane,
Age : 23 years, Occu. Household,
R/o. Nimgaon (Mayamba),
Tal. Shirur, Dist. Beed.
At present c/o. Jalindar Ram Gaikwad
Sainath Nagar, Pathardi,
Tal. Pathardi, Dist. Ahmednagar.

...Respondents

(Resp. No. 2 – Orig. Informant)

.....
Mr. A. L. Kanade, Advocate for the petitioners
Mr. A. M. Phule, APP for respondent/State
Mr. P. R. Nangare, Advocate for respondent no. 2
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**CORAM : SMT. VIBHA KANKANWADI
AND
RAJESH S. PATIL, JJ.**

DATE : SEPTEMBER 07, 2022

ORAL JUDGMENT [PER RAJESH S. PATIL, J.] : -

1] By the present petition filed under Article 227 of the Constitution of India r/w. Section 482 of the Code of Criminal Procedure, the petitioner nos. 1 to 6 are praying for quashing and setting aside of the FIR vide Crime No. 594/2020 registered at Pathardi Police Station, Tal. Pathardi, Dist. Ahmednagar, for the offences punishable under Sections 498A, 313, 323, 504, 506 r/w 34 of the Indian Penal Code and the Charge-sheet No. 280/2022 pending before the learned Judicial Magistrate First Class, Pathardi which culminated into R.C.C. No. 349/2022.

FACTS : -

2.1] It is the case of respondent no. 2 – informant in the FIR that the marriage between petitioner no. 6 and the respondent no. 2 was solemnized on 19.11.2017. They have no issue from the said wedlock. After the marriage, the respondent no. 2 was treated well for hardly five to six days and thereafter her matrimonial family members had asked her to bring Rs. 7.00 lakhs from her parents for securing job for her husband at Nigmanand Secondary and Higher

Secondary School, Nimgaon Mayamba, Tal. Shirur, Dist. Beed. Thereupon, respondent no. 2 had informed them that her parents had spent huge amount in the marriage. Thereafter, respondent no. 2 and her husband i.e. petitioner no. 6 visited the maternal home of respondent no. 2 and sought financial aid.

2.2] It is further the case of respondent no. 2 in the FIR that, the father of respondent no. 2 fulfilled the part demand of money by giving cash amount of Rs. 2.00 lakhs and thereafter they left for their home in Nimgaon Mayamba, Tal. Shirur Kasar. On reaching matrimonial home, the petitioners told respondent no. 2 that her parents should have given Rs. 7.00 lakhs but they have given only Rs. 2.00 lakhs and started harassing her and she was further abused and beaten also. They further asked respondent no. 2 to bring remaining amount of Rs. 5.00 lakhs from her parents.

2.3] It is further stated in the FIR that; the respondent no. 2 then informed her father over phone about further monetary demand of her husband and others. Thereafter, the father of respondent no. 2 transferred online an amount of Rs.1.00 lakh on 27.11.2017 and Rs. 4,000/- on 08.03.2018. Thereafter, on the following day i.e. on 09.03.2018, the father and brother of respondent no. 2 approached her matrimonial house and told the petitioners that they have helped as far as possible and now they don't have money and requested the petitioners to cohabit respondent no. 2 with love and affection and returned to their home at Pathardi.

2.4] It is further the case of respondent no. 2 that on 03.12.2017, petitioner no. 6 i.e. her husband joined the duties as Teacher at the aforesaid School. Thereafter, for about four months, the respondent no. 2 was treated well and in the meanwhile the
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respondent no. 2 conceived. It is further stated in the FIR that thereafter the petitioners again started demanding Rs. 10.00 lakhs from her for purchasing dumper and building material. Thereupon, when respondent no. 2 replied them that her parents are unable to fulfill the demand and that they are finding financial difficulty, the respondent no. 2 was beaten up, abused, starved and harassed physically and mentally. Respondent no. 2 has further stated in the FIR that, she had informed about the said ill-treatment and harassment to her parents but her parents had advised her to wait as the things would get better. On request of parents, respondent no. 2 tolerated the said ill-treatment.

2.5] It is further stated in the FIR that, thereafter, petitioner no. 6, abused respondent no. 2 that he doesn't like her, he got married with her only for the purpose of money and further asked her to abort a foetus as he has suspicion about fatherhood of said foetus. Further, on 28.04.2018, the petitioners said respondent no. 6 that she does not look good and they have performed the marriage of petitioner no. 6 with her only for money and showed disinclination to cohabit her. The petitioners further raised suspicion over the foetus in the womb of respondent no. 6 saying petitioner no. 6 is not father of said foetus and administered her some tablets against her wish to abort the foetus. Though respondent no. 6 had severe pain in her stomach, she was not taken to the hospital for treatment.

2.6] It is further stated in the FIR that, on 29.09.2018, the parents of respondent no. 2 had approached the matrimonial house of respondent no. 2 to meet her and they had also asked the petitioners as to the reason behind harassment and ill-treatment to their daughter, thereupon petitioners abused them and drove respondent no. 2 out of the house. Since then respondent no. 2 has
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been staying with her parents at Pathardi. Thereafter, the parents of respondent no. 2 and Police Patil Juber Pathan tried to convince the petitioners but all such efforts were in vain. Being fed up with the constant ill-treatment and harassment, the respondent no. 2 lodged report with Chaklamba Police Station, Georai, against the petitioners on 28.11.2019. On the next day, the petitioners reached the maternal home of respondent no. 2 and threatened that if the monetary demand of Rs. 10.00 lakhs is not fulfilled, they would not allow respondent no. 2 to cohabit and she would be killed. Thereafter, on 16.01.2020, respondent no. 2 filed a written complaint to the Women's Grievance Redressal Forum at Pathardi. After hearing on the said complaint by the said Forum, respondent no. 2 was informed to register the crime with Police Station. Accordingly, the FIR is filed.

2.7] Subsequently, the charge-sheet bearing no. 280/2022 was filed before the learned Judicial Magistrate First Class, Pathardi, Dist. Ahmednagar and the same was culminated into R.C.C. No. 349/2022.

2.8] In the Criminal Writ Petition, the petitioners have averred that the alleged offence is not committed by them and they are falsely implicated in the crime. In fact father of informant, abused and thrashed petitioner no. 6 (husband). Hence, he lodged N.C. with Chaklamba Police Station, on 27.11.2017. It is also pertinent to note that before F.I.R. was lodged by the present Informant, the petitioner no. 6 (husband) on 23.09.2019 had issued legal notice to informant under Section 9 of the Hindu Marriage Act. However, the Informant did not respond to the notice. The present F.I.R. is filed, thereafter on 12.08.2020, hence the same should be quashed and set aside.

SUBMISSIONS: -

3] Heard Mr. A. L. Kanade for the petitioners, Mr. A. M. Phule, learned APP for the State and Mr. P. R. Nangare for the respondent No.2.

4] Learned counsel Mr. Kanade submits that perusal of the FIR would show that the general and baseless allegations have been levelled against the petitioners. On the basis of the allegations made in the criminal complaint, no cognizable offence can be said to have been made out.

5] Learned APP – Mr. A. M. Phule and learned counsel Mr. P. R. Nangare for respondent no. 2 submitted that specific allegations have been made against all the petitioners, hence there is no question of quashing the FIR and the proceedings arising therefrom.

6] On hearing the parties for considerable time and after showing disinclination to entertain the petition in respect of petitioners No.4 to 6; Mr. Kanade, the petitioners' advocate sought leave to withdraw the petition to the extent of petitioner nos. 4 to 6 on instructions of his clients. Hence, the criminal writ petition so far as petitioner Nos. 4 to 6 are concerned, stands disposed of as withdrawn.

7] Petition is considered now only to the extent of petitioner nos. 1 to 3, who are brother-in-law, wife of brother-in-law and married sister-in-law.

8] Mr. Kanade, the learned counsel for the petitioners submitted that the petitioner nos. 1 and 2 though reside in the common shelter, there are no specific allegations against them. They have been falsely implicated in the offence in question only with an intention to harass them. He further submitted that, so far as petitioner no. 3 is concerned, she is married sister-in-law of respondent no. 2 and resides with her husband at Chinchpur (Ijade), Tal. Pathardi, which is far away from the place where the incident in question has taken place. She has nothing to do with the marital life of respondent no. 2. There is delay in lodging the FIR which is unexplained. The criminal complaint is lodged only with an intention to pressurize the petitioners. He therefore prayed for quashing the FIR and the proceedings arising therefrom to the extent of petitioner nos. 1 to 3.

ANALYSIS : -

9] For quashing the criminal proceedings under Section 482 of the Cr.P.C. we have to see, whether the allegations in the complaint and F.I.R. *prima facie* establish the ingredients of the offence alleged.

10] Perusal of the FIR would show that there are general and vague allegations against petitioner nos. 1 to 3. Petitioner nos. 1 and 2 are the brother-in-law and wife of brother-in-law whereas petitioner no. 3 is the married sister-in-law respectively of respondent no. 2. There are no specific allegations against petitioner nos. 1 to 3. The allegations levelled are mainly against the petitioner nos. 4 to 6, who are husband and in-laws of respondent no. 2. Admittedly, petitioner no. 3 lives in a different city than the one where the incident in question has occurred. Therefore, in our considered view, only with a view to harass petitioner nos. 1 to 3, they have been arraigned as an

accused in the complaint by respondent no. 2.

11] The Supreme Court in **Geeta Mehrotra Vs. State of U.P.**, reported in AIR 2013 SC 181 stated “It can thus be seen that mere reference to family members without any specific allegations against them would not justify taking cognizance against them. There is a tendency to involve the entire family members in a matrimonial dispute.

12] Our High Court in **Shaikh Mushrraf Pasha and others Vs. State of Maharashtra and another**, reported in 2021(2) AVR (Cri.) 343, has observed that continuance of prosecution against relative of husband is nothing but abuse of process of law.

13] Thus, we are of the considered view that the respondent No.2 only with an intention to harass and with an ulterior motive, has filed the complaint against the petitioners No. 1 to 3. Continuation of prosecution against the petitioners, who are the relatives of the husband, in our opinion, would amount to abuse of process of law.

14] Taking into consideration the ratio laid down in the cases of **Shaikh Mushrraf Pasha** and **Geeta Mehrotra** (supra), we are of the considered view that so far as petitioner nos. 1 to 3 are concerned, there are no specific allegations against them and only with a view to harass them they have been arrayed as an accused in the FIR. Therefore, in our view, this is a fit case wherein we should exercise our discretion under Section 482 of the Code of Criminal Procedure to quash the FIR as against petitioner nos. 1 to 3.

ORDER

1. Criminal Writ Petition insofar as petitioner nos. 4 to 6 are concerned, stands disposed of as withdrawn.

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2. Criminal Writ Petition so far as petitioner nos. 1 to 3 are concerned, stands allowed in terms of prayer clause 'B'.

3. FIR vide Crime No. 594/2020 registered at Pathardi Police Station, Tal. Pathardi, Dist. Ahmednagar and the Charge-Sheet No. 280/2022 pending before the learned Judicial Magistrate First Class, Pathardi, Dist. Ahmednagar and the resultant R.C.C. No. 349/2022 stands quashed and set aside as against the petitioner nos. 1 to 3, namely, Suresh Rangnath Mane, Asha Suresh Mane and Sadhana Dipak Gaikwad.

[RAJESH S. PATIL]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE