

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

948 CRIMINAL WRIT PETITION NO.985 OF 2021

**RAJU SAHADEO TUPARE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Petitioners: Mr. Palodkar Devdatt P.

APP for Respondent No.1: Mr. K. S. Patil

Advocate for Respondent No.2:

Ms. Ashwini A Lomte (*appointed*)

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**CORAM: SARANG V. KOTWAL &
BHARAT P. DESHPANDE, JJ.**

DATE: 13th JULY, 2022

PER COURT:

1. This is a Petition for quashing of the proceedings pending before the Judicial Magistrate First Class, Parbhani vide RCC No.480 of 2021 under Sections 323, 417, 498-A, 504, 506 read with 34 of the Indian Penal Code, 1860 arising out of C.R. No.I-0411/2021 registered at Nanalpeth Police Station. At this stage, learned Counsel for the Petitioners does not press this Petition for Petitioner Nos.1, 2 and 3. He seeks permission to withdraw the Petition on their behalf with liberty to them to approach the trial Court by way

of an application for discharge. Permission is granted with such liberty.

2. The Petition, therefore, survives for Petitioner Nos.4 to 8. Respondent No.2 had got married with Petitioner No.1 Raju. Petitioner Nos.4 and 5 are Raju's sister, Petitioner Nos.6, 7 and 8 are uncles.

3. Learned Counsel for the Petitioners submitted that there are no allegations against them. Respondent No.2 hardly stayed with the Petitioner No.1. The F.I.R. itself shows that the period between marriage and the time she had left her matrimonial house is hardly 1½ month. It was a love marriage and the other relatives have no role to play. There is absolutely no allegations against Petitioner Nos.6, 7 and 8. As far as Petitioner No.4 and 5 are concerned they are Petitioner No.1's sister. As per the allegations, they used to harass her and did not give fresh food to her. He submitted that it was a period of first lockdown and, therefore, it was not possible

for these two married sisters of Petitioner No.1's to visit the Petitioner No.1's house. Against Petitioner No.4, there are hardly any allegations and the pendency of the proceedings would harm her future.

4. Learned Counsel for Respondent No.2 as well as learned APP opposed this Application based on the F.I.R. as well as statements recorded during investigation. According to them, the offence is made out against all the Petitioners.

5. We have considered these submissions.

6. The F.I.R. mentions that Respondent No.2 got married with Petitioner No.1 on 05.07.2020. At that time, her parents had spent 6 to 7 lacs for the marriage expenses and had given gold ornaments to Petitioner No.1. She went to reside at Nanded with Petitioner No.1 to 5. She stayed there only for 5 days and then went to Pune. It is alleged that on 19.07.2020, she came to know that Petitioner No.1 was suffering from different

ailments. Petitioner No.1 avoided to answer properly. It is mentioned that the family members of Petitioner No.1 avoided explaining his health condition. There are allegations that the Petitioner Nos.1, 2 and 3 demanded motorcycle, laptop and Rs.50,000/- for a trip and on that count she was harassed. It is alleged that the Petitioner No.5 used to tease her with reference to her weight. On one occasion Petitioner No.1 beat her and, therefore, she went back to reside with her parents. Since 26.08.2020 she started residing with her parents. There are allegations that on 01.09.2020, Petitioner No.6, 7 and 8 called her telephonically and told her to give divorce to Petitioner No.1. On this basis the F.I.R. is lodged. During investigation statements of relatives and family friends of the informant – Respondent No.2 were recorded. The Statements of her parents Sudam and Aasha, brother Ramesh, aunt Maltibai are similar and they basically repeated the allegations in the F.I.R. From these allegations it is clear that there was absolutely

no role attributed to Applicant Nos.6, 7 and 8 attracting any offence. Even against Applicant No.5 there is only one allegation that when she used to visit the Petitioner No.1's house she teased the informant about her weight. There are hardly any allegations against Petitioner No.4. Therefore, in this background, continuation of proceedings against these Petitioners will be abuse of process of law and are required to be quashed. Hence, the following order-

ORDER

[I] The Proceedings pending before the Judicial Magistrate First Class, Parbhani vide R.C.C. No.480 of 2021 are quashed and set aside in respect of Petitioner No.4 Pradnya Sahadeo Tupare, Petitioner No.5 Swati Rahul Randive, Petitioner No.6 Mahadeo Kishan Tupare, Petitioner No.7 Shivaji Marotirao Dhayaje, Petitioner No.8 Vilas Yamaji Dongare only.

[II] The Petition on behalf of Petitioner Nos.1, 2 and 3 is allowed to be withdrawn

with liberty to these Petitioners to approach the Trial Court by way of an Application for discharge. If such an Application is preferred, it shall be decided on its own merits in accordance with law.

[III] Learned Advocate Ms. Ashwini A. Lomte, was appointed to represent Respondent No.2. She shall be paid her fees in accordance with the Rules.

7. The Criminal Writ Petition stands disposed of.

[BHARAT P. DESHPANDE, J.] [SARANG V. KOTWAL, J.]

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