

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

CRIMINAL WRIT PETITION NO. 1180 OF 2021

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|----|--|----------------------------|---------------------------------------|
| 1. | Rajkumar S/o Surendra Dhaktode
Age : 36 Years, Occ. : Service,
R/o. A-32, Anuprita, Near Krishna Temple,
Veera Desai Road, Andheri (W),
Mumbai – 400 058. |]
]
]
]
] | (Husband) |
| 2. | Dr. Surendra S/o Shrirang Dhaktode,
Age : 80 Years, Occ. : Pensioner,
R/o. As above. |]
]
] | (Father-in-law) |
| 3. | Pushpa W/o Surendra Dhaktode,
Age : 68 Years, Occ. : Pensioner,
R/o. As above. |]
]
] | (Mother-in-law) |
| 4. | Priyadarshani D/o Surendra Dhaktode,
Age : 40 Years, Occ. : Service,
R/o. 401, Sidharth Co-op., Housing
Society, Plot No. 223, Charkop,
Sector – 3, Kandivali (W),
Mumbai – 67. |]
]
]
]
]
] | (Sister-in-law) |
| 5. | Mrs. Sanghmitra W/o Sushil Kandalgaonkar
Age : 53 Years, Occ. : Business,
R/o. Flat 1501, Swanlake, Shankar Nagar
D. N. Nagar, Andheri (W),
Mumbai – 53. |]
]
]
]
] | (Cousin Sister-in-law) |
| 6. | Kamlakar S/o Ramchandra Garud,
Age : 57 Years., Occ. : Service,
R/o. Teesata – 2, New TIFR Colony,
S. T. Road, Mandala, Man Khurd,
Mumbai – 88. |]
]
]
]
] | (Maternal Uncle in law
Mama Sasra) |
| 7. | Mrs. Asha W/o. Abhiman Pawar,
Age : 61 Years, Occ. : Pensioner,
R/o. 6/A, Sangeeta Colony,
Bhavsingpura Road,
Aurangabad. |]
]
]
]
] | (Cousin Mother-in-law) |

8. Mrs. Lalita W/o. Waman Baste,] (Cousin Mother-in-law)
 Age : 70 Years, Occ. : Retired Teacher,]
 R/o Plot No. 41, Sangeeta Colony,]
 Bhavsingpura Road,]
 Aurangabad.] ... **Petitioners.**

Versus

1. The State of Maharashtra,]
 Through Police Station,]
 Chawani Police Station,]
 District Aurangabad]
2. Priyanka Rajkumar Dhaktode,]
 Age : 28 Years, Occ. : Housewife,]
 R/o. C/o. Sanduji Nathaji Shirshat,]
 Plot No. 32, Sangeeta Colony,]
 Near Nandanvan Colony,]
 Aurangabad.] ... **Respondents**

...

Mr. Sanjay N. Pagare, Advocate for Petitioners.

Mr. S. D. Ghayal, APP for Respondent No.1-State.

Mr. Menchirel Suresh Manappa, Advocate for Respondent No.2.

...

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

RESERVED ON : 14th DECEMBER 2022

PRONOUNCED ON : 20th DECEMBER 2022

JUDGEMENT (ABHAY S. WAGHWASE, J.) :

1. By invoking inherent powers of this Court under section 482 of Cr.P.C., petitioners i.e. husband, parents-in-law, sister-in-law, cousin sister-in-law, maternal uncle-in-law and cousin mothers-in-law of respondent No.2 are

seeking relief of quashment of crime and charge-sheet arising out of FIR at the instance of respondent No.2 herein.

2. Facts leading to registration of crime :-

Respondent No.2 in her FIR dated 14.02.2021 informed police that she was married to accused Rajkumar in February 2019. After narrating the amount expended in the marriage and articles given in the marriage, she has alleged that she shifted with her husband and in-laws to Mumbai. She was shocked to find that her husband having bad vices, i.e. smoking and drinking. He also consumed some tablets. She has alleged that merely because of journey, there was swelling over her legs, however, she was taken to doctor and forced to take medicine, which had side effects on her health. She has alleged that her husband and in-laws together consumed liquor and she was kept away from their personal meetings. She has alleged about being given medical treatment, even when there was no problem with her and being taken to various doctors. Because of it, there was mental harassment to her. Finally, she alleges that there was demand of Rs.50,00,000/- and hence the complaint.

It is the above crime and the charge-sheet which is now sought to be quashed and set aside by invoking section 482 of Cr.P.C.

3. Learned counsel for petitioners in support of relief would submit that apparently FIR is false, baseless and afterthought. That there was no demand as alleged in the FIR. In fact, FIR itself is motivated one, as informant

herself was suffering from ailment, a fact which was suppressed from the petitioner – husband and in-laws. According to him, still petitioners took medical care of responded No.2 and gave her best possible treatment and expended huge amount on it. According to him, responded No.2 herself was not interested in continuing with marriage and therefore, because of her adamant attitude and misbehaviour in the house, divorce petition was required to be instituted. Baseless allegations of bad voices are raised against husband. According to learned counsel, even going by the length and breath of the FIR, one comes across allegations levelled only against husband and there are no specific allegations against in-laws and rather sweeping allegations are levelled against all in-laws. It being false implication with oblique motive, it is prayed that it is clear abuse of process of law and therefore, he prays for relief as sought.

4. In answer to above, learned APP would take serious objection to the relief and would submit that there are clear allegations of demand of money and on failure to meet the same, she was subjected to mental and physical cruelty. Investigating machinery has conducted thorough investigation and there is sufficient material against the petitioners to face trial. According to him, this is not the stage for such relief and rather prosecution deserves an opportunity to make petitioners face criminal prosecution.

5. On behalf of respondent No.2, learned counsel also opposed the

petition and relief submitting that husband, shortly after marriage, demanded huge amount. Even when respondent No.2 expressed her inability to meet the said demand, she was still subjected to maltreatment. According to him, all petitioners are named in the FIR, and therefore, they are liable to face legal action initiated by respondent No.2.

6. Here, crime registered with the above offences which culminated into above investigation and the consequent charge-sheet are now sought to be quashed.

7. It is pertinent to note that petition to the extent of petitioner No.1-husband has already been withdrawn vide order dated 02nd December 2021. Now, petition of only petitioner Nos. 2 to 8 has remained for consideration.

The law is fairly settled that inherent powers under section 482 of Cr.P.C. are permitted to be, rather must be, exercised by the this Court only when; *firstly*, to give effect to an order under Cr.P.C., *secondly*, to prevent abuse of process of court and *thirdly*, to secure ends of justice.

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.

8. In the light of legal requirement as culled out by the Hon'ble Apex Court and this Court time and again, it is imperative on our part to ascertain whether above circumstances and conditions exist in the case in hand or not so as to grant relief as prayed for.

9. We have already examined the FIR and the investigation papers placed before us. It seems that after marriage dated 14th February 2019, the informant came to reside with her husband at Mumbai and she also undertook job. She has alleged that prior to marriage it was informed that husband had no bad vices, but he in fact he had such bad vices and he smoked and drank liquor and beat her for objecting. She has alleged forcible unnatural sex. She has also alleged that her husband and in-laws had secret talks in one room and never involved her. Then she has alleged that only because of minor swelling, she was forcibly taken to various doctors and treated and the medicines had side effects on her. She has alleged that due to weakness, she was unable to do work, but still was subjected to mental cruelty. That when she expressed her wish to go her parents house she was prevented. Lastly, she has alleged that her husband declared that he did not want to continue the relations and as such time, raised demand of money.

10. Giving careful thought to the above FIR, it is emerging that almost all allegations are levelled against husband. Sweeping allegations seem to be made against in-laws that too on account of secretly having talks

with her husband in a room and not involved her, she forcibly being taken for medical treatment. She has merely stated that because of the side effects, there was weakness, but she was taunted for not working and also in-laws prevented her from going to her parents house. Therefore, omnibus allegations are raised against in-laws. Even demand of amount is specified in the conclusion of the FIR and it is attributed to only husband and maternal uncle is named. When such episode occurred is also not made clear in the FIR. Therefore, as stated by learned counsel for petitioners, it is apparent that along with husband allegations are levelled against all in-laws without any specific role.

11. Primary allegations are against husband for indulging bad vices, beating her in under influence of liquor and having forcible unnatural sex. As stated above, petitioner-husband has already withdrawn his petition. Therefore, there being general, omnibus allegations against rest of the petitioners, making them face prosecution would definitely amount to abuse of process of law. Therefore, petitioner Nos.2 to 8 succeed and as such they are entitled for the relief prayed by them.

12. Therefore, we consider this to be a fit case to indulge and exercise the powers under section 482 of Cr.P.C. and consequently, we proceed to pass following order :

ORDER

- I. The petition is partly allowed.
- II. The FIR No.58/2021 dated 14.02.2021 registered with Cantonment (Chawani) Police Station, Aurangabad for the offences punishable under sections 498-A, 406, 323, 504, 506 r/w 34 of IPC and the consequent charge-sheet vide R.C.C. No.2616 of 2021 pending on the file of J.M.F.C., Aurangabad are hereby quashed and set aside to the extent of petitioner nos. 2 to 8.
- III. The petition is accordingly disposed off.

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)