

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 82 OF 2021

1. Jeevan S/o Trimbak Jagdale
2. Trimbak S/o Narayan Jagdale
3. Sushila W/o Trimbak Jagdale
4. Nanasaheb S/o Shamrao Tanpure

..PETITIONERS

-VERSUS-

1. The State of Maharashtra
2. Priyanka W/o Jivan Jagdale

..RESPONDENTS

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Advocates for Petitioners : Mr.S.E. Shekade
APP for the Respondent/State : Mr.S.J. Salgare
Advocate for respondent no.2 : Ms.Neha B. Kamble (appointed)

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**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.**

DATED : 20th JULY, 2023.

ORDER (PER Sanjay A. Deshmukh, J.) :-

1. This is petition under section 482 of the Criminal Procedure Code, 1973 (for short, "Cr.P.C.") for quashing of FIR bearing C.R. No.0235 of 2020 registered with Amalner Police Station, Tq. Patoda, Dist. Beed for the offence punishable under sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code, 1860 (for short, "IPC") and consequential charge-sheet in R.C.C. No.30 of 2021 pending in the Court of learned Judicial Magistrate, First Class, Patoda.

2. Respondent No.2 is the informant. Petitioner no.1 is husband of informant and petitioner nos.2 and 3 are her in-laws. Petitioner no.4 is the maternal uncle of husband of informant.

3. The informant alleged that her marriage was performed with petitioner no.1 – Jeevan on 14.05.2017. After completion of leave her husband went for duties on 10.06.2017. Thereafter, other petitioners started to demand her Rs.2,00,000/- and one tola gold. Her husband was also forcing her for that amount on the phone call. Thereafter, her husband petitioner no.1 left her to her parental house.

4. On 16th November, 2019, her husband, mother-in-law, father-in-laws and maternal uncle came to her parental home and requested her father to send the informant for cohabitation. But her father told them that because of cruelty for dowry and gold worth Rs.2,00,000/-, he is not ready to send her for cohabitation. That time, petitioner nos.1 and 2 slapped and also gave fists and kick blows to her. Therefore, she lodged the report after the said incident on 08.10.2020.

5. The learned advocate for the petitioners submitted that false crime is registered against the petitioners. There is delay of more than 11 months for lodging the report. Informant has not

explained the delay for lodging the report. She is not ready to cohabit with petitioner no.1. He is serving in Army. Alleged incident did not happen. To compel the petitioners to face trial will be abuse of process of the Court. It is lastly prayed to quash the report and R.C.C. No.30 of 2021 pending on the file of the learned Judicial Magistrate, First Class, Patoda.

6. The learned advocate for respondent no.2 – informant and learned APP submitted that there is no reason for the informant to lodge the false report. They have treated the informant with cruelty. There is absolutely no reason for informant to implicate the petitioners in the crime falsely. It is lastly prayed to reject the petition.

7. Perused the charge-sheet. The alleged incident of assault took place on 16th November, 2019, however, the report is lodged on 08.10.2020. There is no medical certificate of injury sustained to the informant. There is also no explanation for delay caused for lodging the report. It is also doubtful that at the time of incident, petitioner no.1 was present. Alleged story is highly impossible. Therefore, there is no prima facie case against the petitioners. In such situation, if the petitioners are compelled to face the trial, it would be an abuse of process of Court. The petition therefore deserves to be allowed.

8. For the reasons discussed above, the argument of the learned counsel for respondent no.2 and learned APP is not acceptable in this regard.

9. In the result, the petition is allowed in terms of prayer clauses "B", "C-I" and "C-II".

10. The petitioners shall deposit Rs.10,000/- with this Court within five weeks. Once the amount is deposited, the same be paid to appointed Advocate for respondent no.2 Ms.Neha Kamble, as fees.

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)

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