



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 123 OF 2023

1. Vilas Dattatraya Anap
2. Dattatraya Tukaram Anap
3. Ranjana Dattatraya Anap

..PETITIONERS

VERSUS

1. State of Maharashtra
2. Aishwarya Vilas Anap

..RESPONDENTS

....

Mr. S.S. Dixit, Advocate for petitioners
Ms. K.R. Jamdhade, A.P.P. for respondent no.1 – State
Ms. S.M. Zaware, Advocate for respondent no.2

....

CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ
DATE : 13th DECEMBER, 2023

ORDER (PER : SANJAY A. DESHMUKH, J.) :

1. This petition, under Article 226 of the Constitution of India, has been filed for quashment of Charge-sheet No. 202 of 2022 and Criminal Case No. 491 of 2022 pending in the Court of J.M.F.C. Sangamner pursuant to the First Information Report ('F.I.R.') bearing Crime No. 334 of 2022 registered with Sangamner City Police Station, Dist. Ahmednagar for the offences punishable under Section 498-A, 420, 406, 323, 504 and 506 read with Section 34 of the Indian Penal Code ('I.P.C.').

2. The informant has averred in the F.I.R. that initially love affair was developed between herself and Applicant No.1 and they performed marriage

in one office of an advocate. Thereafter that fact came to the knowledge of the parents of the informant and they performed the marriage of the informant and Applicant No.1 in one Mayur Express Marriage Hall, Sangamner. Initially she was treated well for fifteen days and thereafter her husband used to tease her on account of not giving four wheeler and bullet bike. Parents-in-law were also insisting for the same. Applicant No.1 started ill-treating her. He used to doubt her character and beat her. She frequently lodged the N.C. reports in the Sangamner City Police Station. It is further averred that once she noticed some documents of divorce of her husband with one Jayshree. She questioned him as to why the said fact was not told to her. That time she came to know that she has been duped by her husband. When she decided to leave her matrimonial house, the applicants took away the gold ornaments on her person and drive her from the house. Therefore, she lodged the F.I.R.

3. Learned counsel for the petitioners submitted that the informant filed the proceeding under the Domestic Violence Act ('D.V. Act') which she had withdrawn. The divorce proceeding bearing H.M.P. No. 282 of 2019 is pending in the Court of C.J.S.D., Sangamner. Applicant No.1 – husband of the informant also filed an application for restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955. He submitted that essential ingredients of Section 420 and 498 of the I.P.C. are not established from the F.I.R. and charge-sheet. He prayed to allow the petition.

4. Learned counsel for Respondent No.2 – informant strongly opposed the application and pointed out that various N.C. reports registered against Applicant No.1 and others were registered under Section 504 and 506 of the I.P.C. He further submitted that names of all the applicants are disclosed in the report. Applicant No.1 – husband has cheated her by not disclosing his earlier marriage with one Jayshree. All these facts show that there is material evidence against the applicants. He lastly prayed to reject the petition.

5. Learned A.P.P. also strongly opposed the petition.

6. Perused the report and charge-sheet. It is an admitted fact that the informant has withdrawn the proceeding filed under the D.V. Act. In the said proceeding, bearing Criminal M.A. No. 350 of 2022, the informant filed a pursis in which she has stated that her parents threatened her that they will commit suicide. Therefore, she had made such false allegations. This fact itself shows that the report lodged by her was filed because of pressure of her parents. The J.M.F.C., Sangamner while disposing of the application mentioned that the informant was present and the facts mentioned in the pursis were verified. All these facts show that there is no material evidence against the applicants to proceed further with the crime. It would be an abuse of process of Court if the applicants are required to face the trial. We are, therefore, inclined to allow the petition.

7. In view of above, criminal writ petition is allowed in terms of prayer clauses [A] and [B].

SSD (SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)