

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 579 OF 2022

1. Sanjay s/o Shivaji Galande
 2. Shivaji s/o Eknath Galande
 3. Saraswati w/o Shivaji Galande
 4. Sambhaji s/o Shivaji Galande
 5. Baban s/o Eknath Galande
 6. Radhabai w/o Baban Galande
 7. Navnath s/o Baban Galande
- ...Petitioners

versus

1. The State of Maharashtra
 2. Ujjwala w/o Sanjay Galande
- ...Respondents

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Mr. V.P. Latange, advocate for the petitioners
Mr. M. M. Nerlikar, A.G.P. for respondent No.1
Mr. S.E. Shekade, advocate for respondent No.2.

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**CORAM : R. G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATED : 24th JULY, 2023.**

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

1. Heard the learned counsel for the respective parties.
2. This writ petition is filed under Section 482 of Cr.P.C. for quashment of FIR No.0047 of 2022 registered with Ashti Police Station, district Beed for the offences punishable under Sections 498-A, 323, 504, 506 r.w. 34 of I.P.C. and consequential charge sheet/final report bearing No. 207 of 2022 and the proceedings of R.C.C. No. 271 of 2022 pending before the J.M.F.C. Ashti, District

Beed.

3. It is alleged by the informant/respondent No.2 that he is married with petitioner No.1 on 10.3.2004. She was ill-treated by the petitioners since 2005. She used to tell about the same to her parents and also about the petitioners that they are doubting her character. She was beaten by all the petitioners on 14.7.2021 in the midnight at 12.00 p.m. and expelled her from matrimonial house by keeping children i.e. three daughters and one son with them. She therefore, lodged a report on 23.2.2022.

4. The learned counsel of the petitioners pointed out the missing report given by petitioner No.1/husband of the informant and also statements of witnesses that the respondent/informant eloped with her paramour Amol Gorakh Talekar. She was having illicit relations with him. Therefore, he filed HMP No. 50 of 2022 for divorce. The learned advocate for the petitioners therefore, prayed to allow the petition, as there is no prima facie case against the petitioners.

5. The learned A.P.P. for respondent No.1 State and learned advocate of respondent No.2 argued that the informant was ill-treated by all the petitioners. They abused, beaten and expelled her out of house. There is prima facie case against the petitioners. They prayed for rejection of the petition.

6. Perused the charge sheet. The F.I.R., missing report as well as the statements of witnesses show that the informant is having illicit relations with one Amol Gorakh Talekar. Though the incident of assault and expulsion of informant from matrimonial house took place on 14.7.2021, she has lodged the report on 23.2.2022. Upon perusal of entire charge sheet alongwith HMP No. 50 of 2022 filed by petitioner No.1 against respondent-informant for divorce, it *prima facie* establishes that the informant is not ill-treated by any of the petitioners but she had filed false report and made allegations of doubting her character etc. There is no explanation of delay caused for lodging of the report. Thus, afterthought the report is lodged belatedly. Thus, on such allegations, compelling the petitioners to face the trial would be an abuse of process of Court. Therefore, the petition deserves to be allowed.

7. In view of the above, criminal writ petition is allowed in terms of prayer clauses "B" and "D-1" and R.C.C. No. 271 of 2022 pending before the J. M. F. C. Ashti, District Beed are quashed. No costs.

8. It is made clear that the observations made in this order are *prima facie* in nature.

(SANJAY A. DESHMUKH, J.)

(R. G. AVACHAT, J.)

rlj/