

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

36 CRIMINAL WRIT PETITION NO.982 OF 2022

**MAHESH ASHOK LAHANE AND OTHERS
VERSUS
MADHURI W/O MAHESH LAHANE AND ANOTHER**

Mr. Someshwar M. Mundik, Advocate for the petitioners
Mr. G. R. Syed, Advocate for the respondent No.1
Mr. Y. G. Gujrathi, APP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 28th FEBRUARY, 2023

P. C.

1. The petitioners are challenging order dated 03-02-2022 passed by the learned JMFC, Parli-Vaijyanath issuing process against the petitioners for the offences punishable under Sections 498-A & 323 read with Section 34 of the Indian Penal Code. The complaint was dismissed so far as sections 504 & 506 of the IPC are concerned.

2. Learned advocate for the petitioners vehemently submits that all the allegations are in general in nature. The complaint is filed only to harass the petitioners and therefore, the complaint deserves to be dismissed.

3. Learned advocate for respondent No.1 and learned

APP vehemently opposed the petition saying that in view of the alternate remedy the petitioners can challenge the order by filing revision before the learned Sessions Court. It is further submitted that there are allegations against all the persons and especially against petitioner Nos. 1,2 and 3. Insofar as the other petitioners are concerned, it is submitted that averments in the complaint was that they have instigated petitioner Nos.1,2 and 3. Petitioner Nos. 4 and 5 are resident of Aurangabad. Therefore, it is submitted that there is a case against all the accused persons-petitioners and the learned JMFC has rightly issued the process against the petitioners.

4. Heard the submissions and seen the complaint. On going through the complaint it is seen that specific allegations are only against petitioner Nos. 1, 2 and 3. So far as petitioner Nos. 4 to 7 the allegations are vague and general in nature. The petitioner Nos. 6 and 7 are the uncle and aunt of the petitioner No.1 who are staying at Pune away from Aurangabad. Looking to this, there are no allegations against petitioner Nos. 4 to 7, this court is inclined to partly allow the petition to the extent of petitioner Nos. 4 to 7. Hence, the following order:-

ORDER

a] The criminal writ petition stands partly allowed.

(3)

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b] The order dated 03-02-2022 passed by the learned JMFC, Parli-Vaijyanath issuing process for the offences punishable under Sections 498-A & 323 read with Section 34 of the Indian Penal Code is hereby quashed and set aside to the extent of petitioner Nos. 4 to 7.

[KISHORE C. SANT, J.]

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