

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

CRIMINAL WRIT PETITION NO. 1195 OF 2021

Shaikh Javed Shaikh Sadik and Others

..PETITIONERS

VERSUS

State of Maharashtra and Another

..RESPONDENTS

....
Mr. Saeed S. Shaikh, Advocate for petitioners
Mr. S.D. Ghayal, A.P.P. for respondent no.1 - State
....

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

PER COURT :

1. This petition, under Article 226 of the Constitution of India has been filed for quashing of the First Information Report ('F.I.R.'), being Crime No. 206 of 2021 registered with Sillod Rural Police Station, Dist. Aurangabad for the offences punishable under Sections 498-A, 323 and 504 read with Section 34 of the Indian Penal Code and consequential charge-sheet filed in Criminal Miscellaneous Application No. 26 of 2022 pending on the file of Judicial Magistrate First Class, Sillod.

2. After having heard learned counsel for the petitioners, we expressed disinclination to grant relief to Petitioner Nos. 1 to 3 i.e. husband and parents-in-law of the informant. Learned counsel for the petitioners,

therefore, came around to withdraw the petition to the extent of these petitioners.

3. The F.I.R. has been lodged on 23rd September, 2021. It is the case of the informant that she married Shaikh Javed in June 2018. Thereafter she started residing at her matrimonial home at Phulambri. Her in-laws, some of the petitioners herein, treated her well for first four months of marriage. Thereafter, the husband and parents-in-law of the informant started ill-treating her. She was abused and assaulted as well. They asked to fetch Rs.2 lakhs from her parents, if she desired to continue to stay at her matrimonial home. The informant, therefore, related the same to her parents. They, in turn, reasoned with the informant's husband and parents-in-law. She was, therefore, treated well for some days. The in-laws of the informant again started ill-treating her since the informant did not conceive for over ten years of marriage. All of them started teasing her. She was even assaulted by them. Her husband would tell her that he would contract second marriage.

4. It has further been averred in the F.I.R. that Petitioner Nos.4 and 5 – Fatema Bi and Ayesha Bi, wives of brothers-in-law of the informant and Petitioner No.6 – Rizwana Shaikh, sister-in-law started ill-treating her over her failure to conceive. They would ask her to leave the matrimonial home. It has been averred in the F.I.R. that in the year 2019 her husband drove her

out of the matrimonial home after having been assaulted her. Since then she has been residing at her parental home. It has further been averred that her husband contracted second marriage with one Samrin Bi (Petitioner No.7). The informant alongwith her father, therefore, went to her matrimonial home. Her in-laws, however drove her out of the home. She thereafter approached Women's Grievance Redressal Forum, Aurangabad. Her husband and in-laws agreed to take her back. They however did not keep their word. The F.I.R., therefore, came to be lodged.

5. On investigation of the crime, charge-sheet has been filed. The statements of relations of the informant are on the lines of the averments in the F.I.R. Learned counsel for the informant and learned A.P.P. would submit that the informant had made many applications to the Women's Grievance Redressal Forum, Aurangabad. Said applications demonstrate as to how the petitioners ill-treated her. According to learned counsel, averments in the F.I.R. and the statements of the witnesses prima facie make out a case to proceed against the petitioners. They, therefore, urged for dismissal of the petition.

6. Considered the submissions advanced. The averments in the F.I.R. have already been referred to hereinabove. Sister-in-law and wives of brothers-in-law of the informant are alleged to have abused the informant

and asked her to leave the matrimonial home, as she did not conceive. The said incident allegedly took place in the year 2019. The informant thereafter left the matrimonial home. There is admittedly no resumption of cohabitation. The aforesaid averments/allegations in the F.I.R., even if taken as true and correct, the ingredients of offence punishable under Section 498-A of I.P.C. do not get attracted. Those allegations are general and vague in nature. The other petitioners are second wife of the informant's husband and her relations. Even Kazi, who performed second marriage of the informant's husband and one marriage consultant, have been made accused. Admittedly, the informant had no occasion to cohabit with her husband post his second marriage. No overt acts have been attributed to the second wife of the informant's husband and her relations. In this factual matrix, it would be an abuse of process of the Court if Petitioner Nos. 4 to 11 are to stand trial. We are, therefore, inclined to grant relief to them.

7. In view of above, criminal writ petition is partly allowed. Petition stands disposed of as withdrawn for Petitioner Nos. 1 to 3. As regards Petitioner Nos. 4 to 11, petition is allowed in terms of prayer clause (B).

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)

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