

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1697 OF 2022

1. Rajaram s/o Baliram Waghmare
2. Ashwini w/o Rajaram Waghmare
3. Malan wd/o Baliram Waghmare
4. Mangesh s/o Baliram Waghmare (withdrawn) ...Petitioners

Versus

1. The State of Maharashtra
2. Sushma w/o Mangesh Waghmare ...Respondents

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Mr. A. L. Kanade, advocate for the petitioners

Mr. A. R. Kale, A.P.P. for respondent No.1

Mr. I. D. Maniyar, advocate for respondent No.2

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

DATED : 30th AUGUST, 2023.

O R D E R (PER SANJAY A. DESHMUKH, J.):

Heard the learned counsel for the respective parties. The learned counsel for the petitioners, on instructions, withdraws the petition to the extent of petitioner No.4.

2. This writ petition is filed for quashing of F.I.R. No. 188 of 2022 registered with Patoda police station, Tq. Patoda, District Beed for the offences punishable under Sections 498-A, 323, 504, 506 r.w. 34 of I.P.C. and the consequential charge sheet i.e. R.C.C. No. 115 of 2022, pending before the Judicial Magistrate, First Class, Patoda,

District Beed.

3. The informant/respondent No.2 averred in the F.I.R. that her marriage took place with co-accused Mangesh Waghmare on 9.5.2009. The couple is blessed with one daughter. She further averred that in the year 2017, one house is purchased for Rs.32.00 lacs. Out of the said amount, some amount was paid by her father-in-law and some amount was raised by obtaining loan. For repayment of the housing loan amount, an amount of Rs.10,000/- p.m. was deducted from the account of informant. It is further averred that, thereafter, the petitioners started to harass her by demanding Rs.1,50,000/- for payment of installments of the housing loan.

4. It is further alleged that on 3.2.2022, she was abused and beaten with kicks and fist blows by the petitioners and co-accused-husband, as she could not fulfill the demand. Thereafter, on 3.7.2022, she was assaulted, beaten and kept on starvation. It is further averred that on 13.8.2022, at about 2.00 p.m. when she was at her parental house at Pachangri, her in laws i.e. husband, mother-in-law, brother-in-law and sister-in-law came to the said place and threatened her that if she does not bring Rs.1,50,000/-, they will not allow her to cohabit with her husband. Therefore, she lodged the complaint to the Women Dispute Redressal Forum, Beed on 26.8.2023. Since the compromise could not succeed, the respondent/informant lodged the report on 15.10.2022.

5. The learned counsel for the petitioners submits that the informant is having illicit relations with one Mr. Vishal Rupwate and she is residing with him. The H.M.P. No. 1118 of 2022 is filed by the husband against the informant on 23.6.2022 for decree of divorce on the ground of adultery. The learned counsel further submits that no such incident took place and the petitioners are falsely implicated in the crime. The delay caused for lodging report is not explained. He therefore, prayed for quashment of the report and the consequential charge sheet.

6. The learned A.P.P for respondent No.1 State and the learned advocate for the respondent/ informant have strongly opposed the petition by contending that the specific incident of assault are averred in the report and all the petitioners are responsible for the cruelty caused to the respondent/informant. They prayed for rejection of the petition.

7. Perused the charge sheet. It is an admitted fact that the informant is residing adjacent to the house of her husband and the divorce petition filed by him shows that she is having illicit relations with one Mr. Vishal Rupwate. The last alleged incident took place on 13.8.2022 and the report is lodged on 15.10.2022. The delay caused in lodging report is not explained. The report is lodged after filing of the divorce proceeding by the husband of the informant. Therefore,

prima facie, the present petitioners cannot be held liable for the alleged offences. The essential ingredients of Section 498-A of I.P.C. are not made out against the petitioners. It would be an abuse of process of the court if the petitioners are compelled to stand the trial. In our view, the writ petition deserves to be allowed.

8. In view of the above, writ petition is allowed to the extent of petitioner Nos. 1 to 3. The F.I.R. No. 188 of 2022 registered with Patoda police station, Tq. Patoda, District Beed for the offences punishable under Sections 498-A, 323, 504, 506 r.w. 34 of I.P.C. and the consequential charge sheet i.e. R.C.C. No. 115 of 2022 pending before the Judicial Magistrate, First Class, Patoda, District Beed, are quashed and set aside. No costs.

9. It is made clear that the observations made in this order are prima facie in nature and the trial court shall not get influenced by the said observations.

(SANJAY A. DESHMUKH, J.)

(R. G. AVACHAT, J.)

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