



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

993 CRIMINAL WRIT PETITION NO. 662 OF 2023

1. Avinash S/o Vitthal Machpalle (withdrawn)
2. Sunita w/o Vitthal Machpalle (withdrawn)
3. Vitthal Manikrao Machpalle (withdrawn)
4. Ashwini Vitthal Pote
5. Vitthal Santaram Pote
6. Swati Somnath Patil ...Petitioners

Versus

1. The State of Maharashtra
2. Yogita w/o Avinash Machpalle ...Respondents

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Advocate for the Petitioners : Mr. N. L. Chaudhari

APP for Respondent No.1: Mr. S.B. Narwade

Advocate for Respondent No.2 : Mr. Nilesh Patil

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CORAM : SHIVKUMAR DIGE, J.
DATED : 19th SEPTEMBER, 2024.

PER COURT :-

1. The learned counsel for the petitioner's, on instructions, seeks leave to withdraw the writ petition to the extent of petitioner Nos. 1, 2 and 3. Considering his submission, leave granted. The petition stands disposed of as withdrawn to the extent of petitioner Nos. 1, 2 and 3. Learned counsel for the petitioners further submitted that the petitioner Nos. 2 and 3 are mother-in-law and father-in-law, respectively, of respondent No.2, they be permitted to file an application before the trial court seeking permanent exemption from appearing before the trial court. Considering the submission of

learned counsel for the petitioners, if such an application is filed by the petitioner Nos. 2 and 3, the said application be decided on its own merit.

2. Insofar the petitioner Nos. 4, 5 and 6 are concerned, they are praying for quashing of R.C.C. No. 1745 of 2021 for the offences punishable under section 498-A, 323, 504, 506, 34 of Indian Penal Code (for short "I.P.C.") pending before the 5th joint J.M.F.C. Latur, district Latur.

3. It is the contention of learned counsel for the petitioners that petitioner No.4 is sister-in-law of respondent No.2, petitioner No.5 is husband of petitioner No.4 and petitioner No.6 is wife of maternal uncle of accused No.1 i.e. husband of respondent No.2. The learned counsel further submitted that they have been falsely implicated in this case. The marriage of petitioner Nos. 4 and 5 was solemnized prior to the marriage of the respondent No.2 with accused No.1. The petitioner Nos. 4 and 5 are staying separately at Nashik whereas matrimonial home of respondent No.2 is at Aurangabad. Petitioner Nos. 4 and 5 never resided with respondent No.2 and her husband. Petitioner No.6 has no concern with the matrimonial dispute between the respondent No.2 and her husband and in-laws. Being family members, they are added as accused in the said crime. No evidence

is produced on record to show the role of the present petitioners. Hence, requested to quash the proceeding against the present petitioners.

4. It is the contention of learned counsel for the respondent No.2 that being the sister-in-law, the petitioner No.4 instigated the husband, mother-in-law and father-in-law of respondent No.2 to cause her mental and physical harassment. Petitioner No.5, petitioner No.4 and petitioner No.6 also interfered in the matrimonial life of respondent No.2 and her husband and they instigated the husband of respondent No.2 to cause physical and mental harassment. The evidence is required to prove the role of the present petitioners. In the alleged crime, at primary stage, the proceeding against them cannot be quashed. Hence, requested to dismiss the writ petition.

5. The learned A.P.P. submitted that appropriate order may be passed.

6. I have heard all the learned counsel. Perused the papers produced on record. The allegations against the petitioners are that they instigated the husband, mother-in-law and father-in-law of the respondent No.2 to cause her mental and physical harassment. It

appears from the record that the marriage of petitioner Nos. 4 and 5 was solemnized prior to the marriage of respondent No.2 with the accused No.1 and they are staying separately at Nashik since then. Petitioner No.6 is wife of maternal uncle of the husband of respondent No.2. She also stays separately. There are no specific allegations against the present petitioners. Considering these facts, I pass the following order:-

O R D E R

- I. The writ petition is allowed.
- II. The proceedings of R.C.C. No. 1745 of 2021 registered for the offences punishable under section 498-A, 323, 504, 506, 34 of Indian Penal Code, pending before the 5th joint J.M.F.C. Latur, district Latur, are quashed and set aside to the extent of petitioner Nos. 4 to 6 herein.

(SHIVKUMAR DIGE, J.)

rlj/