



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

925 CRIMINAL WRIT PETITION NO.767 OF 2023

1 Jitendrakumar @ Jitu Pralhadmal Jain,
Age 34 yrs., Occ. Private Service,
R/o Keshav Nagar, Subhash Brij,
Ahmedabad, Gujarat.

2 Jayshree w/o Mohan Bhandari,
Age 38 yrs., Occ. Household,

3 Mohan Bhagwanchand Bhandari,
Age 41 yrs., Occ. Business,

Petitioner Nos.2 and 3 are
R/o E/702, Shilalekh Apartment,
Shahibaug, Tq. & Dist. Ahmedabad City,
Gujarat State.

... Petitioners

... Versus ...

1 The State of Maharashtra
Through Police Station Officer,
City Police Station, Parali,
Tq. Parali, Dist. Beed.

2 Ashwini w/o Jitu Jain,
Age 26 yrs., Occ. Household,
R/o Bank Colony, Parali,
Tq. Parali, Dist. Beed.

... Respondents

...

Mr. A.A. Phad, Advocate for petitioners

Mrs. Priya R. Bharaswadkar, APP for respondent No.1

Mr. M.N. Kalyane, Advocate (appointed) for respondent No.2

...

CORAM : SMT. VIBHA KANKANWADI &
S.G. CHAPALGAONKAR, JJ.

DATE : 24th SEPTEMBER, 2024

ORDER :

1 Present writ petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 initially for quashing the First Information Report vide Crime No.87/2023 dated 25.04.2023 registered with Parali City Police Station, Dist. Beed and subsequently for quashing the charge sheet i.e. proceedings bearing Regular Criminal Case No.124/2023 pending before learned Judicial Magistrate First Class, Parali, Dist. Beed, for the offence punishable under Sections 498-A, 323, 504, 506, 507 read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. A.A. Phad for applicants, learned APP Mrs. Priya R. Bharaswadkar for respondent No.1 and learned appointed appointed Mr. M.N. Kalyane for respondent No.2 and perused the charge sheet.

3 After the disinclination is shown to grant any relief to petitioner No.1 – husband; learned Advocate for petitioners seeks withdrawal of the

petition as against petitioner No.1.

4 Petitioner No.2 is the sister-in-law of respondent No.2 and petitioner No.3 is the husband of petitioner No.2. It appears from the memo of the petition that petitioner Nos.2 and 3 reside at a different address. Of course, in the charge sheet same address has been given as against them also. In the First Information Report there is absolutely no statement as to why even after the marriage petitioner Nos.2 and 3 were residing with petitioner No.1. In ordinary course petitioner No.1 would have gone to reside with petitioner No.3. Further, as regards petitioner No.3 is concerned, there is absolutely no specific allegation. It is stated that after the second daughter was born, husband started saying as to how only daughters are born and she should bring amount of Rs.5,00,000/- from her parents and then he used to ill-treat her. It is then stated that petitioner Nos.2 and 3 were also assaulting her, but there is no statement that they were also asking for the money/illegal demand. Another statement is that when the informant was allegedly driven out of the house, at that time one daughter was given to her and another was kept by her husband and petitioner No.2. There are no statements as to what efforts they were made to get the custody of the child. Under such circumstance, it would be unjust to ask petitioner Nos.2 and 3 to face the trial for the offences stated in the charge sheet, as the ingredients are not

made out *prima facie*. Therefore, this is a fit case to exercise powers under Section 482 of the Code of Criminal Procedure in favour of petitioner Nos.2 and 3. Hence, following order.

ORDER

1 Criminal Writ Petition stands partly allowed.

2 Criminal Writ Petition stands dismissed as against petitioner No.1, upon disinclination.

3 The proceedings in Regular Criminal Case No.124/2023 pending before learned Judicial Magistrate First Class, Parali, Dist. Beed arising out of offence vide Crime No.87/2023 dated 25.04.2023 registered with Parali City Police Station, Dist. Beed for the offence punishable under Sections 498-A, 323, 504, 506, 507 read with Section 34 of the Indian Penal Code, 1860 stands quashed and set aside as against petitioner Nos.2 and 3.

4 Fees of the learned Advocate who represented respondent No.2, after the order was passed by this Court, is quantified at Rs.5,000/- (Rupees Five Thousand only), to be paid by High Court Legal Services Sub Committee, Aurangabad.

(S.G. CHAPALGAONKAR, J.)

(SMT. VIBHA KANKANWADI, J.)