



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

Criminal Writ Petition No. 750 Of 2023

1. Manohar Shivdas Badgujar
Age : 71 years, Occu. Retired,
2. Nandini Manohar Badgujar
Age : 61 years, Occu. Housewife
Both R/at 4/8, Artist Village, Sector 8,
CBD Belapur, Navi Mumbai, Thane.

...Petitioners

Versus

1. State of Maharashtra
Through Sr. Police Inspector,
Chopda City Police Station.
2. Ankita Mayur Badgujar
Age : 26 years, Occu. NIL
R/at C/o Bhargarv Jagannath Salunkhe
Badgujar Galli, Chopda, Tal. Chopda
Dist. Jalgaon.

...Respondents

AND

Criminal Writ Petition No. 912 Of 2023

1. Shamali Ganesh Badgujar
Age : 33 years, Occu. Professional,
R/at B01, Saipark CHS, Nandgaon
JNPT Road, Panvel.
2. Sunil Uddhav Badgujar,
Age : 58 years, Occu. Labour,
R/at Bhagyoday Nagar, Chopda,
Dist. Jalgaon.

3. Jayashri Sunil Badgujar
Age : 47 years, Occu. House wife,
R/at Bhagyoday Nagar, Chopda,
Dist. Jalgaon.
4. Sudhakar Shivdas Badgujar,
Age : 63 years, Occu. Tailoring,
R/at Bhagyoday Nagar, Chopda,
Dist. Jalgaon.
5. Ushabai Sudhakar Badgujar,
Age : Adult, Occu. House wife,
R/at Bhagyoday Nagar, Chopda,
Dist. Jalgaon.
6. Uddhav Rajaram Badgujar,
Age : 85 years, Occu. NIL,
R/at Bhagyoday Nagar, Chopda,
Dist. Jalgaon.
7. Ashok Shivdas Badgujar,
Age : 76 years, Occu. Retired,
R/at Plot No.26, Madan Mohan Nagar,
Opposite to Jijamata College,
Nandurbar.
8. Bharati Vijay Badgujar,
Age : 62 years, Occu. Widow and Housewife,
R/at N42, VDI, Savata Nagar, CIDCO,
Nashik. ...Petitioners

Versus

1. State of Maharashtra
Through Sr. Police Inspector,
Chopda City Police Station.

2. Ankita Mayur Badgujar
Age : 26 years, Occu. NIL

R/at C/o Bhargarv Jagannath Salunkhe
Badgujar Galli, Chopda, Tal. Chopda
Dist. Jalgaon.

...Respondents

AND

Criminal Writ Petition No. 944 Of 2023

1. Kishor Shivdas Badgujar
Age : 61 years, Occu. Retired,
2. Madhavi Kishor Badgujar
Age : 54 years, Occu. Housewife

Both R/at Udhyam Nagar, Kurul-Veshvi Road,
Taluka. Alibag, Dist. Raigad.

...Petitioners

Versus

1. State of Maharashtra
Through Sr. Police Inspector,
Chopda City Police Station.

2. Ankita Mayur Badgujar
Age : 26 years, Occu. NIL

R/at C/o Bhargarv Jagannath Salunkhe
Badgujar Galli, Chopda, Tal. Chopda
Dist. Jalgaon.

...Respondents

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Advocate for Petitioners in Cri.W.P. No.750/2023 : Mr. P.R.
Katneshwarkar i/by Mr. A.V. Hon.

Advocate for Petitioners in Cri.W.P. No.912/2023 and 944/2023 :
Mr. Manoj Badgujar h/f Mr. A.V. Hon.

APP for Respondent/s – State : Mr. V.M. Jaware

Advocate for Respondent No.2 : Mr. Prafullasing H. Patil

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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 2 APRIL 2024

FINAL ORDER [Shailesh P. Brahme, J.] :

. Heard learned Counsel Mr. P.R. Katneshwarkar and Mr. Manoj Badgujar instructed by Mr. A.V. Hon for the petitioners; learned APP Mr. V.M. Jaware for State and Mr. Prafullasing H. Patil for Respondent No.2, finally at the admission stage.

2. All the petitioners are seeking quashment of First Information Report bearing C.R. No. 194 of 2023 registered with Chopda City Police Station, District Jalgaon against them, for offence punishable under Sections 498A, 323, 504, 506 read with 34 of the Indian Penal Code and consequential RCC No.250/2023 pending before the Judicial Magistrate First Class, Chopda.

3. The petitioners are related to the respondent no.2/Informant as follows :

Criminal Writ Petition No.750/2023		
Number of Petitioner	Name of the Petitioner	Relationship with the Respondent No.2
1	Manohar Shivdas Badgujar	Uncle-in-law
2	Nandini Manohar Badgujar	Aunt-in-law
Criminal Writ Petition No.912/2023		
1	Shamali Ganesh Badgujar	Sister-in-law
2	Sunil Uddhav Badgujar	Maternal Uncle-in-law
3	Jayashree Sunil Badgujar	Maternal Aunt-in-law
4	Sudhakar Shivdas Badgujar	Uncle-in-law
5	Ushabai Sudhakar Badgujar	Aunt-in-law
6	UddhavRajaram Badgujar	Grandfather – in-law
7	Ashok Shivdas Badgujar	Uncle-in-law
8	Bharati Vijay Badgujar	Aunt-in-law
Criminal Writ Petition No.944/2023		
1	Kishor Shivdas Badgujar	Father-in-law
2	Madhavi Kishor Badgujar	Mother-in-law

4. The respondent no.2 got married with Mayur Kishor Badgujar on 26.12.2021. She started residing with him at Alibagh alongwith parents-in-law. There is no dispute that the petitioners in Criminal Writ Petition No.750/2023 were residing at Kokan Bhavan, Navi Mumbai at the relevant time. Petitioner no.1/Shamali in Criminal Writ Petition No.912/2023 was residing at Panvel. Remaining petitioners were residing at Chopda, District Jalgaon. Petitioners in Criminal Writ Petition No.944/2023 were residing with married couple at Alibagh.

5. Respondent no.2/Ankita lodged report with Chopda Police Station on 01.05.2023 which is registered as C.R. No.194/2023 stating that her husband/Mayur was unable to have the sexual relationship with her. Their marriage was not consummated and she was blamed for that. She was being mentally and physically harassed by husband/Mayur and his parents. Petitioner/Shamali - sister-in-law also supported them. She was being harassed for not performing the marriage as per the expectations. Her plight continued even after the couple stayed separately. When she reported that her husband was impotent, she was harassed and insisted for bringing expenses for medical treatment.

6. It is further alleged that informant was being demanded Rs.5 Lacs for giving divorce. Other petitioners also supported husband and parents-in-law. Ultimately, informant was taken to her parental home on 07.10.2022. Attempt of reconciliation failed as husband was being castigated as impotent. Another attempt was made for reconciliation on 10.11.2022. When all the accused were present, marriage was requested to be dissolved by informant. It was not accepted by husband and his relatives/accused.

7. Impugned FIR was investigated and charge-sheet was

filed which culminated in RCC No.250/2023, pending before the Judicial Magistrate First Class, Chopda.

8. Learned Counsel Mr. P.R. Kattneshwarkar for the petitioners submits that his clients are uncle and aunt of the husband who never shared matrimonial home as they were residents of C.B.D. Belapur, Navi Mumbai. The allegations against them are vague. Only role attributed against them is that they insisted for continuing marital relationship between informant with her husband, instead of divorce. He would submit that they are roped in with oblique motive and due to the strained relationship of informant with her husband.

9. Learned Counsel Mr. Manoj Badgujar for the petitioners in Criminal Writ Petition No.912/2023 and 944/2023 adopts the submissions. Additionally he would submit that bedroom dispute between husband and wife has been capitalized by the informant when his clients did not play any role. It is reiterated that his clients were resident of different places and had no occasion to interact with the couple. He would refer to written complaint made by informant to Women's Grievance Cell on 27.01.2023 which only spells about ill-treatment meted out by the husband. It is submitted that informant has vindictively implicated the petitioners.

10. Per contra, learned APP Mr. V.M. Jaware and learned Counsel for respondent no.2 Mr. Prafullasing H. Patil oppose the submissions of the petitioners. They would submit that there is adequate material to proceed against the petitioners. FIR and statements of the witnesses indicate their complicity. Informant was being harassed for bearing medical expenses and later on for Rs.5 Lakhs to dissolve marriage. Petitioners have abetted the offence. It is further submitted that a full-fledged trial is necessary to decide role played by the petitioners.

11. We have considered rival submissions of litigating sides. We have gone through FIR and other papers of investigation. There is no dispute that informant cohabited with husband/Mayur at Alibagh. Her parents-in-law were residing with them. Other petitioners have not shared the common shelter with couple. Before lodging complaint, informant had approached Women's Grievance Cell vide her application dated 27.01.2023.

12. A careful perusal of FIR shows that father-in-law, mother-in-law and the couple resided together at Alibagh, after marriage. After some period, the couple started residing separately. We find that husband and his parents played incriminating role in causing ill-treatment. There was

direct confrontation with the informant as they were residing together. They are also accused of demanding expenses of medical treatment as well as Rs. 5,00,000/- for getting divorce. Thereafter also on 07.10.2022 and 10.11.2022, they were present and played active role. The statements of witnesses also corroborate complaint in material particulars. Statement of Ganesh would not make any difference.

13. We are of the considered view that there is prima facie case against the petitioners from Criminal Writ Petition No.944/2023, father-in-law and mother-in-law. We are not inclined to grant any relief to them. We propose to reject their petition.

14. The informant lodged a complaint with the Women's Grievance Cell on 27.01.2023. Interestingly, it does not spell out any specific incriminating role against the petitioners from Criminal Writ Petition No.750/2023 and 912/2023. The conduct of husband, father-in-law and mother-in-law has been castigated. That is also reason as to why we are not inclined to grant relief to the father-in-law and the mother-in-law. So far as the petitioners excepting father-in-law and mother-in-law, are concerned, omnibus and vague allegations are made against them. They are not resident of Alibagh. Though the petitioner/Shamali, sister-in-law is alleged to have abetted ill-

treatment by visiting Alibagh, there are no material particulars. On such vague allegations, prosecution would be an exercise in futility.

15. The relations between informant and her husband were strained. The genesis of the prosecution is alleged impotency of husband and the harassment emanating from it. This being a personal affair between the husband and the wife, at the most parents-in-law can have some role to cause ill-treatment to informant but not the rest of the relatives. In all probability, implication of petitioners in Criminal Writ Petition No.750/2023 and 912/2023 is to wreak vengeance, as observed by the Supreme Court in the matter of **Kahekashan Kaisar Khan Vs. State of Bihar**, (2022) 6 SCC 599, **Geeta Mehrotra and Ors. Vs. State of U.P. and Ors.**, (2012) 10 SCC 741 and **Preeti Gupta and Anr. Vs. State of Jharkhand and Anr.**, AIR 2010 SC 3363, false implication of above petitioners is evident.

16. Learned Counsel for the petitioners seeks reliance on latest judgment of Supreme Court in the matter of **Mahmood Ali and Others Vs. State of U.P. and Others**, 2023 SCC OnLine SC 950. We have gone through paragraph no.13. It lays down that in frivolous or vexatious proceedings, the Court while exercising its jurisdiction under Section 482 of

the Cr.P.C. or Article 226 of the Constitution of India, owes a duty to look into many other attending circumstances emerging from the record and if necessary to read in between the lines with due care and circumspection. We have undertaken the exercise contemplated by the judgment. We are of the considered opinion that it would be an exercise in futility to allow these other petitioners to face the prosecution. We, therefore pass following order :

ORDER

- (i) The Criminal Writ Petition No.750/2023 and Criminal Writ Petition No.912/2023 are allowed.
- (ii) The Criminal Writ Petition No.944/2023 is rejected.
- (iii) First Information Report bearing C.R. No. 194 of 2023 registered with Chopda City Police Station, District Jalgaon for the offence punishable under Sections 498A, 323, 504, 506 read with 34 of the Indian Penal Code and consequential RCC No.250/2023 pending before the Judicial Magistrate First Class, Chopda, are quashed and set aside to the extent of petitioners in Criminal Writ Petition No.750/2023 and 912/2023.

SHAILESH P. BRAHME
JUDGE

MANGESH S. PATIL
JUDGE