



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

**CRIMINAL WRIT PETITION NO. 1296 OF 2022**

1. Shaikh Feroz S/o Latif,  
Age : 27 Years, Occu. : Business,  
R/o Bilal Mohalla, Tq. Majalgaon,  
Dist. Beed.  
**(Dismissed as withdrawn as per  
Hon'ble Court's order dated 17.10.2022)**
  2. Shama Anees Shaikh  
(Shamim Begum W/o Anis Shaikh)  
Age : 35 Years, Occu. : Household,  
R/o Muhammadiya Colony,  
Beed.
  3. Zareena Azhar Shaikh,  
(Jarina Azar Sayyad),  
Age : 28 Years, Occu. : Household,  
R/o Near Bilal Masjid,  
Bilal Mohalla, Majalgaon,  
Dist. Beed.
  4. Shaikh Parveen W/o Shaikh Riyaz,  
Age : 30 Years, Occu. : Household,  
R/o Plot No. 151, Sagar Manzil,  
Iqbal Nagar, Dhanegaon,  
Itwara, Nanded.
  5. Nahid Anees Shaikh  
(Naheed Alfroz Sayyad),  
Age : 22 Years, Occu. : Household,  
R/o At Ravana, Post Rani Uchegaon,  
Tq. Ambad, Dist. Jalna.
- .. Petitioners

**Versus**

1. The State of Maharashtra,  
Through Police Inspector,

Police Station, Selu,  
Dist. Parbhani.

2. Shaikh Gulloddin Bashir,  
Age : 51 Years, Occu. : Tailor,  
R/o Dhasala, Tq. Selu,  
Dist. Parbhani.

.. Respondents

Shri Saeed S. Shaikh, Advocate for the Petitioners.  
Mrs. V. N. Patil-Jadhav, A.P.P. for the Respondent No. 1.  
Shri Ramrao G. Nirmal, Advocate for the Respondent No. 2.

**CORAM : MANGESH S. PATIL AND  
SHAILESH P. BRAHME, JJ.  
DATE : 10 APRIL 2024.**

**JUDGMENT (*Per Shailesh P. Brahme, J.*) :-**

. Rule. Rule is made returnable forthwith. Heard both sides finally with their consent.

2. The petitioners are seeking quashment of first information report bearing CR No. 288/2021 of Police Station Selu for offence punishable U/Sec. 498-A, 306 r/w Sec. 34 of the Indian Penal Code, consequential charge sheet and R.C.C. No. 53 of 2022 pending before the Judicial Magistrate First Class, Selu.

3. The petitioner Nos. 1 and 2 have already withdrawn application, when this Court was not inclined to grant relief to them. We are considering petition in respect of remaining petitioners. They are married sisters-in-law of the deceased daughter of the respondent No. 2. The respondent No. 2 is informant.

4. It is alleged in the complaint by the respondent No. 2 that marriage of his daughter Nasarin was solemnized with Feroz on 23.05.2021. Initially for one month his daughter was treated properly. Thereafter, accused started demanding dowry of Rs. 2,00,000/- for purchasing a vehicle. When daughter expressed inability to satisfy the demand, illtreatment, physical and mental, started. They drove her out from the matrimonial home. It is further alleged that on 03.10.2021 in the night deceased was having telephonic talk with her husband and she was crying. In the midnight she was found to have consumed poison. Later on she died.

5. Learned counsel for the petitioners submits that petitioners are the married sisters of the husband and did not share common shelter with the deceased. The allegations against them are omnibus. They are falsely implicated in the offence as the relationship between deceased and husband was strained. It is further submitted that deceased died at her parental home and there is no *causa causans* between the alleged illtreatment and suicide. It is further submitted that she hardly resided at the matrimonial home for three and half months and there was no illtreatment as such.

6. Learned Assistant Public Prosecutor and the learned counsel for the respondent No. 2 oppose the submissions of the petitioners. They would submit that specific role has been attributed in the first information report and the statements recorded during the course of investigation. It is further

submitted that though the petitioner No. 3 is married, she was residing at Beed and participated in the illtreatment. It is further submitted that statement of independent witness Shaikh Rafiq Shaikh Hamid has been recorded. There is strong *prima facie* case to proceed against the petitioners.

7. We have considered rival submissions of the parties and we have gone through relevant papers of investigation. Undisputedly, petitioner Nos. 3 to 5 are married sisters-in-law of the deceased. The petitioner Nos. 4 and 5 are residents of Nanded and Jalna respectively at the relevant time. It further reveals that deceased resided at the matrimonial home for less than four months. She committed suicide at her parental place.

8. First information report does not disclose specific allegations against the petitioners. The reference of the petitioner Nos. 3 to 5 is cursory. Same is the case with the statements recorded during the course of investigation. We have considered statement of Shaikh Rafiq Shaikh Hamid, who is contended to be an independent witness. He happens to be neighbour of the informant, who collected information from the informant. He is not a direct witness. For want of necessary particulars, we find the complicity of the petitioners doubtful.

9. The deceased committed suicide on 03.10.2021, when she was with her parents. There is no sufficient material to attribute abetment at the hands of petitioner Nos. 3 to 5. There was matrimonial discord and the deceased was living with her

parents. There is no material to show element of *mens rea*. We are of the considered view that no case is made out for the offence U/Sec. 306 of the I. P. Code as against the petitioner Nos. 3 to 5.

10. Considering overall circumstances present case squarely falls within the parameters laid down by the Supreme Court in the matter of State of Haryana Vs. Bhajanlal reported in *1992 SCC (CRI) 426* to exercise jurisdiction U/Sec. 482 of the Cr. P. C. We are also guided by the principles laid down in the matters of Geeta Malhotra and another Vs. State of U. P. and another, (2012) 10 SCC 741 and Kahkashan Kausar @ Sonam and others Vs. State of Bihar, (2022) 6 SCC 599, to record that the petitioners have been falsely implicated in the offence.

11. The criminal writ petition is partly allowed to the extent of petitioner Nos. 3 to 5. FIR bearing CR No. 288/2021 for offence punishable U/Sec. 498-A, 306 r/w Sec. 34 of the Indian Penal Code, consequential charge sheet and R.C.C. No. 53 of 2022 pending before the Judicial Magistrate First Class, Selu are quashed and set aside.

12. Rule is made absolute in above terms.

[ SHAILESH P. BRAHME, J. ]      [ MANGESH S. PATIL, J. ]