



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

CRIMINAL WRIT PETITION NO. 1780 OF 2022

1. Anish S/o. Manik Waghchaure
2. Sahel S/o. Deorao Sathe
3. Kamalbai W/o. Pralhad Kamble
4. Amrapali W/o. Anish Waghchaure
5. Shilananda W/o. Sahel SathePetitioner

Versus

1. The State of Maharashtra
2. Manisha W/o. Chetan KambleRespondents

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Advocate for Petitioners : Mr. D.B. Pokale

APP for Respondent No. 1 : Mr. Sarang P. Joshi

Advocate for Respondent No. 2 : Mr. S.J. Gaike and Mr. N.R. Thorat

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

DATE : 07 MAY 2024

FINAL ORDER (Per : Shailesh P. Brahme, J.) :

1. Heard both sides finally at the admission stage.
2. Petitioners are seeking quashment of First Information Report bearing No. 481 of 2022 and consequential chargesheet filed under Sections 498-A, 323, 504 read with 34 of the Indian Penal Code.

3. When we expressed our disinclination, learned counsel for the petitioners, on instructions, sought permission to withdraw petition to the extent of petitioner no. 3. We permitted to withdraw petition to her extent. We are considering petition to the extent of petitioner nos. 1 and 2 who are brothers-in-law of the informant and petitioner nos. 4 and 5 who are sisters-in-law of the informant.

4. It is alleged by respondent no. 2 that her marriage was solemnized with Chetan on 02.06.2006. The marriage expenses were born by her parents. A dowry of Rs. 2,50,000/- was also given to the husband and the petitioners. Two siblings are born out of the wedlock. Informant was being harassed by the petitioners for having given less amount of dowry. She was being demanded Rs. 2,50,000/- for purchasing a car and subjected her to physical and mental torture. She was being frequently insulted and abused by petitioners and her fidelity was suspected. Later on, she was driven out of the matrimonial home.

5. The complaint of respondent no. 2 is investigated and charge sheet is filed against petitioners.

6. Learned counsel for the petitioner submits that they are falsely implicated in the offence in question. They did not share common shelter. It is further submitted that conduct and the character of the

informant was objectionable. Due to that her husband left home and was missing. It is further submitted that allegations are vague. It would be abusing of process of law to proceed against the petitioners.

7. Learned APP and learned counsel for respondent no. 2 would oppose the submissions of the petitioner. It is being submitted that though respondent nos. 4 and 5 are married they were residing in the same vicinity. The supplementary statement and the statements of other witnesses are referred to show involvement of the petitioners. They would vehemently submit that full fledged trial would be necessary to disclose the truth.

8. We have considered rival submissions of the parties. We have also gone through relevant papers of investigation. It transpires from record that petitioner no. 3 mother-in-law had filed Criminal Miscellaneous Application No. 1051 of 2024 before Judicial Magistrate First Class, against informant seeking direction under Section 156 (3) of the Code of Criminal Procedure. It was rejected vide order dated 30.07.2014. Contents of Criminal Application would disclose serious disputes between informant and the mother-in-law. That also would reflect on the conduct of the respondent. It is informed that a revision against that order is pending.

9. We have considered FIR, supplementary statement of the informant and statements of the witnesses carefully. We do not find any specific allegations against the petitioner nos. 1, 2, 4 and 5. The material collected during investigation does not show that petitioners shared common shelter with informant. Petitioner nos. 4 and 5 are married sisters and there is nothing on record to show that they had any occasion to confront informant.

10. Record reveals that relationship of the informant with petitioner no. 3 was strained. The possibility of implicating all the petitioners to wreck vengeance cannot be ruled out. In such scenario, we find it difficult to sustain prosecution against the petitioner nos. 1, 2, 4 and 5 for the offences pitted against them. It would be abuse of process of law to proceed against the petitioner nos. 1, 2, 4 and 5. We, therefore, pass following order :

ORDER

- i. Criminal Writ Petition is allowed in terms of prayer clause 'B' to the extent of petitioner nos. 1, 2, 4 and 5.
- ii. Criminal Writ Petition is disposed of.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]