

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 656 OF 2020

1. Firoz Ibrahim Panhali,
Son of Ibrahim Sultan Panhali,
37 years of age, married,
Residing at H.No.1167/2
Thal, Shiroda,
Goa
2. Ibrahim Sultan Panhali,
Age-Adult, Occu-Business,
Residing at H.No.1167/2,
Thal, Shiroda Goa.
3. Jayada Ibrahim Panhali,
Age-Adult, Occu-Housewife,
Residing at H.No. 1167/2
Thal, Shiroda, Goa.
4. Musa Ibrahim Panhali,
Age-Adult, Occu-Business,
Residing at Daddi, Tal-Hukkeri
Belgaum 591254
5. Mrs. Yasmin Mohammad Hanif
Bagwan.
Age-Adult, Occu-Business,
Residing at Nerli, Tal-Hukkeri,
Belgaum-591340
6. Mohammad Hanif Bagwan,
Age-Adult, Occu-Business,
Residing at Nerli, Tal-Hukkeri
Belgaum 591340
7. Eliyas Mohammad Hanif Bagwan,
Age-Adult, Occu-Business,

Residing at Nerli, Tal: Hukkeri
Belgaum-591340

.....Petitioners

Vs.

1. State Of Maharashtra
Through Police Inspector,
Kolhapur Police Station,
Maharashtra, India.
(represented through Public Prosecutor)

2. Smt. Nilofer Firoz Panhali,
Daughter of Shri Rajmohammad
Badshah Bagwan,
35 years of age, Married,
Resident of Flat No.259,
Susheela Sea winds Phase IV,
Vaddem, Vasco Goa

.....Respondents

Ms. Shakun Jain, for the Petitioners.

Mr. Sukanta A. Karmakar, APP for Respondent No.1-State.

Mr. Vikrant B. Shinde, for Respondent No.2.

**CORAM : SARANG V. KOTWAL AND
DR. NEELA GOKHALE, JJ.
DATE : 3rd DECEMBER 2024.**

ORAL JUDGMENT :- (Per Sarang Kotwal, J.)

1) Heard Ms. Shakun Jain for the Petitioners, Mr. Sukanta Karmakar, learned APP for the State and Mr. Vikrant Shinde for Respondent No.2.

2) At the outset, learned counsel for the Petitioners does not press this Petition for the Petitioner No.1-Firoz Ibrahim Panhali. She seeks leave to withdraw the Petition on behalf of the Petitioner No.1

with liberty to prefer an application for discharge before the trial Court.

3) Considering her request, the Petition is dismissed as withdrawn as far as the Petitioner No.1 is concerned with liberty to prefer a discharge application. If such an Application is preferred, it shall be decided on its own merits in accordance with law.

4) FIR in this case is lodged by the Respondent No.2 ('Informant'). Petitioner No.1 is her husband. Petitioners No.2 and 3 are parents of the Petitioner No.1, Petitioner No.4 is his brother, Petitioner No.5 is his married sister, Petitioner No.6 is the husband of the Petitioner No.5 and Petitioner No.7 is the son of the Petitioners No.5 and 6.

5) The Petition is filed for quashing of the FIR registered vide C.R.No.332 of 2019 at Rajarampuri Police Station, Kolhapur dated 11th October 2019 for the offences punishable under Section 498-A, 323, 504 read with 34 of the Indian Penal Code, 1860 ('IPC') culminating in charge-sheet and consequent proceeding, i.e., R.C.C. No.521 of 2020 pending before the Court of Judicial Magistrate First Class, Kolhapur.

6) The FIR is lodged by the Respondent No.2 as mentioned

earlier on 11th October 2019. She has stated that she got married to the Petitioner No.1 on 12th May 2013. At that time, her father had spent Rs.5 Lakhs for the expenses. After marriage, she went to Shiroda, Ponda to her husband's house for a period of five days. She was employed in Kolhapur. Therefore, she used to visit her husband sometimes at Shiroda, ponda. Her husband used to visit her at Kolhapur. Their cohabitation was peaceful for the first 8-9 months. Thereafter, the husband started telling her to leave her job with the MSEB and to reside at Shiroda. The Informant opposed that idea. He used to demand money from her. There used to be disputes because he was asking for divorce if she did not leave the job. Ultimately, getting frustrated, she left her job. She decided to leave her job and to reside at Ponda, Goa. Again in May 2015, there were disputes between the husband and wife. At that time, all the Petitioners were also present. There is a general allegation that all of them told her that she should leave her job and should start residing at her matrimonial house in Goa and she was also beaten. On the next day, she went back to Kolhapur. She thought about the situation and decided to leave her job. She was pregnant. She got a job at Goa Shipyard as an Assistant Superintendent. She left her job at Kolhapur

on 2nd September 2015 and went back to her husband's house at Ponda, Goa. She had taken her ornaments. Again there was peaceful co-habitation for about two months. Then, her husband started drinking liquor. He used to demand money from her. On that ground, he used to beat her. He suggested to her that they should buy a flat at Vasco. She gave him Rs.10 lakhs as her contribution. Installments on loan taken by them were paid by her husband but he used to harass her for money. He used to throw articles at her. There are further vague and general allegations against all the Petitioners that they used to beat and harass her. On these allegations, the FIR is lodged.

7) Learned counsel for the Petitioners submitted that ingredients of the offences alleged against the Petitioners under Sections 498-A, 323, 504 read with 34 of the IPC are made specifically against the Petitioner No.1-husband only as the Petitioner No.1 and the Informant were residing separately from the other Petitioners. There are vague and general allegations against all the other Petitioners. The Respondent No.2 has made allegations against the relatives of the Petitioner No.1 but they are only vague and general allegations. She submitted that registration of the FIR at Kolhapur is also not correct.

- 8) Learned counsel for the Respondent No. 2 submitted that the allegations in the FIR are sufficient to prosecute the Petitioners.
- 9) Learned APP supported the arguments of learned counsel for the Respondent No.2.
- 10) We have considered these submissions. The charge-sheet contains the statements of other witnesses viz. parents of the Informant, her uncles- Jamil and Jahangir, friends- Nilam, Minaz, neighbour-Saurabh, friend- Ashwila. All of them supported the allegations in the FIR. These entire allegations in the FIR as rightly submitted by the learned counsel for the Petitioners, are vague and general as far as the present Petitioners are concerned. No specific allegations against any of the Petitioner is mentioned. Learned counsel for the Petitioners has submitted that the husband and wife, i.e., the Petitioner No.1 and the Respondent No.2 were residing separately from the other Petitioners. Dispute about the money, etc. was specifically between the husband and wife. Even in that aspect, the FIR states that husband, i.e., the Petitioner No.1 had paid major installments of the loan taken for a flat which they had decided to purchase jointly. It appears from the record that there was merely any reference to the names of the family members, in the matrimonial

dispute, without there being any specific role and, therefore, the continuation of the proceeding against the Petitioners would be an abuse of process of law and it would not serve any purpose since all the other Petitioners are residing in different towns and in different districts from the Petitioner No.1 and the Respondent No.2. Therefore, we are inclined to quash the FIR. The Petition is allowed.

11) Rule is made absolute in terms of prayer clauses (a) and (b-1), which read thus;

“a) Records and proceedings of the impugned FIR, i.e. FIR no. 0332/2019 lodged at the Kolhapur Police Station be called for and after pursuing the same impugned FIR no.0332, the alleged complaint and all the actions taken by Respondent No.1 and proceedings initiated pursuant thereto, be quashed and set aside.

b-1) The entire proceedings as well as all subsequent actions, FIR No. bearing 332/2019 subsequent to the RCC No. bearing 521/2020 are arisen out of FIR CR No. 332/2019 entire proceedings subsequently to the FIR No.332/2019 should be vitiated and liable to be quashed.”

12) It is made clear that the Petition is allowed and the proceeding is quashed only in respect of the Petitioners No.2 to 7 as

mentioned earlier. Petition as far as Petitioner No.1 is concerned is withdrawn, with liberty as mentioned earlier.

(DR. NEELA GOKHALE, J.)

(SARANG V. KOTWAL, J.)

Digitally
signed by
SHAMBHAVI
NILESH
SHIVGAN
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