



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

15 CRIMINAL WRIT PETITION NO.1521 OF 2024

- 1 Raju @ Vishwanath Gangadhar Burle,
Age 47 yrs., Occ. Service,
R/o Kathwate Nagar, Renapur Naka,
Latur, Tq. & Dist. Latur.
- 2 Savitri w/o Uddhav Halse,
Age 63 yrs., Occ. Household,
R/o Halse Galli, Ahmedpur,
Tq. Ahmedpur, Dist. Latur.
- 3 Uddhav Dasrao Halse,
Age 65 yrs., Occ. Business,
R/o Halse Galli, Ahmedpur,
Tq. Ahmedpur, Dist. Latur.
- 4 Dhanraj Balaji Burle,
Age 29 yrs., Occ. Student,
R/o Karadkhed, Tq. Udgir,
Dist. Latur.
- 5 Yuvraj Balaji Burle,
Age 27 yrs., Occ. Student,
R/o Karadkhed, Tq. Udgir,
Dist. Latur.
- 6 Manik Ramdas Burle,
Age 31 yrs., Occ. Agri.,
R/o Karadkhed, Tq. Udgir,
Dist. Latur.

... Petitioners

... Versus ...

- 1 The State of Maharashtra
Through Police Station Officer,

Vivekanand Chowk Police Station,
Latur, Tq. & Dist. Latur.

2 Prasad Muralidhar Waghmode,
Age 45 yrs., Occ. Business,
R/o Manik Nagar, Nanded.

... **Respondents**

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Mr. R.B. Hake, Advocate for petitioners

Mr. V.K. Kotecha, APP for respondent No.1

Mr. Yogesh Birajdar, Advocate h/f Mr. N.S. Shinde, Advocate for respondent
No.2

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**CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

DATE : 10th JULY, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present petition has been filed for quashment of First
Information Report vide Crime No.416/2024 dated 27.06.2024 registered
with Vivekanand Chowk Police Station, Latur, for the offence punishable
under Sections 304 and 506 read with Section 34 of the Indian Penal Code,
1860.

2 Heard learned Advocate Mr. R.B. Hake for petitioners, learned

APP Mr. V.K. Kotecha for respondent No.1 and learned Advocate Mr. Yogesh Birajdar holding for learned Advocate Mr. N.S. Shinde for respondent No.2.

3 Learned Advocate for petitioners submits that respondent No.2 is brother of deceased Jyoti, who was married to petitioner No.1 on 26.05.2003. Petitioner No.2 is sister of petitioner No.1, petitioner No.3 is husband of petitioner No.2, petitioner Nos.4 and 5 are cousin nephews of petitioner No.1 and petitioner No.6 is also nephew i.e. son of another brother of petitioner No.1.

4 Respondent No.2 In his First Information Report has stated that his sister Jyoti was treated properly for about six months only after the marriage and thereafter petitioner No.1 used to demand amount on one or the other pretext from him. If they were not providing the said amount, then petitioner No.1 used to harass Jyoti. Jyoti gave birth to twin daughters on 12.05.2005 and petitioner No.1 thereafter started saying that he is a Government servant and, therefore, he cannot have three children, therefore, he refused to take daughters with him, however, when he was advised, thereafter he took them along with him. Respondent No.2 further states in First Information Report that petitioner No.1 had demanded amount of Rs.2,00,000/- for the purpose of purchase of plot in July, 2007 and that

amount was given by informant. On the said plot petitioner No.1 has constructed three storied building. As there were daughters to Jyoti, she was mentally harassed by petitioner Nos.1 and 2. According to respondent No.2, petitioner No.1 was not taking proper care of Jyoti and daughters. Learned Advocate for petitioners submits that at no point of time Jyoti had filed any First Information Report for the offence punishable under Section 498-A of the Indian Penal Code. It is tried to be stated on behalf of prosecution that Jyoti had given a written complaint to Superintendent of Police, Latur on 29.08.2022, however, no offence came to be registered.

5 Respondent No.2 has further stated in his First Information Report that Jyoti became ill on 23.02.2024 and at that time it was told by her to family members that petitioner No.1 has no intention that she should live and, therefore, he is making her to starve and giving mental and physical harassment. He was not providing treatment to Jyoti. Informant and his family members were requesting petitioner No.1 to take Jyoti for treatment, but it was on the deaf ears of petitioner No.1. As there was no improvement in the health of Jyoti, respondent No.2 admitted her to Birajdar Multispeciality Hospital, Latur. She was admitted in Intensive Care Unit. She was treated there and then though requested, petitioner No.1 refused to give her treatment. The informant and his mother admitted Jyoti to Bhagwati

Multispeciality Hospital, Nanded and after some days she was asked to be taken to Hyderabad for further treatment. Accordingly, she was taken to Hyderabad. But her health deteriorated. Unfortunately, she expired on 20.03.2024. Petitioner No.1 had not even taken care to take the body in custody and perform last rites. The last rites were therefore performed by respondent No.2 at Nanded on 21.03.2024. In connection with this portion of First Information Report petitioners' Advocate relies on online transactions, whereby petitioner No.1 had transferred amount of Rs.50,000/- each on 11.03.2024 on the account of his both daughters separately and Rs.50,000/- on 15.03.2024 to the account of his daughter Janhavi. There was dispute between petitioner No.1 and Jyoti and daughters were also taking education at Latur and were staying with informant. First Information Report is silent on the point, since when Jyoti was kept starved by petitioner No.1. Now, the offence is under Section 304 of the Indian Penal Code. There cannot be any such intention on the part of petitioner No.1 that Jyoti should die. In fact, with the help of two daughters informant along with his mother had forcibly entered the house of petitioner No.1 by breaking the lock and gold ornaments and cash was taken away. Now, in First Information Report informant states that he along with his nieces Vaishnavi and Janhavi went to the house of petitioner No.1 on 14.06.2024 and found that it was locked. Janhavi called his cousin Dhanraj with key, which Dhanraj brought and then

he says that petitioner Dhanraj, Manik and Yuvraj came there and asked them to vacate the house and told that they would be given the same treatment as that was given to their mother. Unnecessarily petitioner Nos.2 to 6 have been roped in Section 304 of the Indian Penal Code cannot get attracted against them.

6 Per contra, learned APP and learned Advocate for respondent No.2 strongly opposed the petition and submitted that charge sheet is yet to be filed and, therefore, only on the basis of First Information Report it cannot be quashed and set aside. Learned APP has made available the papers of investigation, wherein statements of witnesses have been recorded. He submits that now the matter is pending for Handwriting Expert's opinion and, therefore, charge sheet has not been filed. It has been transpired that even the mobile numbers of the daughters were blocked by present petitioner No.1. That means, he was disowning his responsibility towards wife and daughters.

7 Here, it is to be noted that even from First Information Report the offence under Section 304, 506 read with Section 34 of the Indian Penal Code cannot be said to be made out. There are absolutely no explanations and First Information Report is silent mainly on the point, as to since when

Jyoti was kept starving. Here, it is to be noted that petitioner No.1's daughters are residing with respondent No.2 and it appears to be since their birth. Of course, we need not go into those details as to what had happened, but at no point of time there was an attempt by informant to leave daughters of petitioner No.1 at the house of petitioner No.1. Further, it appears that those daughters were born on 12.05.2005 and Jyoti became ill on 23.02.2024. The long gap from 2005 to 2024 regarding treatment of petitioner No.1 with Jyoti and daughters has not been given in details in First Information Report. Prior to 23.02.2024 it appears that there was no complaint by Jyoti that she has been kept starved. The investigation papers contain photo copy of death summary from Apollo Hospitals, Hyderabad. The cause of death is "Severe Covid Acute Respiratory Distress Syndrome with Septic Shock". Diagnosis was also the same and additional diagnosis was "Severe Covid 19 Pneumonia with Acute Respiratory Distress Syndrome". The history that was given was that the patient had no known comorbidities but had complaint of fever, cough and cold since 23.02.2023. The date of admission with Apollo Hospitals was 10.03.2024. That means, for about a year she was having those complaints, but later it is stated that the fever subsided. Then there was dry cough increased since seven days prior to date of admission. That means, Jyoti died because of severe Covid 19 Pneumonia. Now, respondent No.2 wants to encash her death to implicate the petitioners.

The statements of daughters have also been recorded and in their statements both of them have stated that impression was given to them that the father was ridiculing them because they are daughters and as the father is a Government servant he cannot have third child. Both of them have not stated that the father has never made provision for eatables for them and their mother. If since their birth, that means, in 2005 they were kept starving, they would not have survived till the date of their statements were recorded. Certainly, First Information Report appears to be lodged for wreaking vengeance against petitioners.

8 Now, unnecessarily Investigating Officer is waiting for Handwriting Expert's opinion. The complaint that was given was dated 02.05.2022 and for almost two years Jyoti had survived. The said complaint application cannot be made admissible under Section 32(1) of the Indian Evidence Act, as it is not relating to cause of death. Under such circumstance, it would be an abuse of process of law if all the petitioners are asked to face the trial. Certainly, petitioner Nos.2 to 6 have been roped unnecessarily. Hence, we proceed to pass following order.

ORDER

- i) Criminal Writ Petition stands allowed.

ii) First Information Report vide Crime No.416/2024 dated 27.06.2024 registered with Vivekanand Chowk Police Station, Latur, for the offence punishable under Sections 304 and 506 read with Section 34 of the Indian Penal Code, 1860, stands quashed and set aside as against petitioners viz. 1) **Raju @ Vishwanath Gangadhar Burle**, 2) **Savitri w/o Uddhav Halse**, 3) **Uddhav Dasrao Halse**, 4) **Dhanraj Balaji Burle**, 5) **Yuvraj Balaji Burle** and 6) **Manik Ramdas Burle**.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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