



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

19 CRIMINAL WRIT PETITION NO. 1742 OF 2023

1. SHAIKH SATTAR S/O. SHAIKH JILANI
2. SHAIKH AJAJ S/O. SHAIKH SATTAR
3. SHAIKH AHEMAD S/O. SHAIKH SATTAR
4. KAUSARBI W/O. SHAIKH AHEMAD
5. KAIRUNBI W/O. SHAIKH SATTAR

VERSUS

1. THE STATE OF MAHARASHTRA
2. SHAIKH NAGAMA W/O. SHAIKH AJAJ

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Advocate for Petitioners : Mrs. Rani Bharuka-Bora
h/f. Mr. Bora Satyajit S.

APP for Respondent No. 1 : Mrs. Chaitali Choudhari-Kutti
Advocate for Respondent No. 2 : Mr. Katneshwarkar S.P.

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CORAM : KISHORE C. SANT, J.
DATE : 03.07.2025

PER COURT :

1. Heard the parties.
2. This petition is filed seeking quashment of the proceedings of RCC No. 204/2018 challenging the order passed by the learned Additional Sessions Judge, Basmath, in Criminal Revision Application No. 06/2022, dismissing the revision preferred by the petitioners and confirming the order of issuance of process passed by the learned JMFC, Basmath, dated 11.04.2022, in RCC No. 204/2018.
3. The proceeding is under Sections 498-A, 354-A and 34 of

the Indian Penal Code. The informant / respondent no. 2 filed the complaint against the present petitioners. Petitioner no. 1 is father-in-law, petitioner no. 2 is husband, petitioner no. 3 is brother-in-law, petitioner no. 4 is wife of brother-in-law and petitioner no. 5 is mother-in-law of the informant. In the complaint, it is alleged that petitioner no. 1, within few days after marriage caught hold the hand of the informant with oblique motive. He always used to have evil eye on the informant. He used to touch her at inappropriate places whenever she was alone in the house. Though, she made complaint of his behavior, the other petitioners did not pay any attention. Petitioner no. 2 even started suspecting the character of the informant doubting the fraternity of two children born to her. Then the allegations against other petitioners that they also used to support petitioner no. 1. Further, it is alleged that they used to make demand of Rs. 1 Lakh for purchasing Auto. Looking to the allegations, learned JMFC issued process. The said came to be challenged by filing revision. The revision also came to be dismissed and thus, the petitioners are before this Court.

4. At the outset, learned Advocate for the petitioner seeks leave to withdraw the petition to the extent of petitioner nos. 1 and 2. Leave granted. She submits that the allegations against petitioner nos. 3 to 5 are omnibus, vague and general in nature. No any overt act is

alleged against them. At the most, the allegation is that they did not support the informant whenever she made complaint about behavior of petitioner no. 1. She submits that both the Courts below have failed to appreciate this aspect. She thus, prays for allowing the application.

5. Learned Advocate for the respondent no. 2 /informant vehemently opposes the petition. He submits that all the petitioners and the informant stayed in the same house. It was necessary for other petitioners to protect the informant. However, they turned blind eye even when complaint was made to them. They could have prevented petitioner nos. 1 and 2, however, they have not done so and offence is made out even against them with the aid of Section 34 of the IPC. He thus, prays for rejection of the petition.

6. During the course of arguments, the learned Advocate for the petitioners relies upon the judgment of the Hon'ble Apex Court in Criminal Appeal No. 2379 of 2024, in the case of *Achin Gupta Versus State of Haryana and Another*. The Hon'ble Apex Court in the said case considered the judgment in case of *State of Haryana Versus Bhajan Lal*, 1992 Supp (1) SSC 335, and more specifically paragraph no. 7 which reads as thus :

“(7) where a criminal proceeding is manifestly

attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

7. Considering that when the Court comes to conclusion that the proceeding is filed and continued with oblique motive in such cases the proceedings needs to be quashed. She further relies on the judgment reported in **AIR 2022 SC 820**, *Kahkashan Kausar and Others Versus State of Bihar and Others*. Paragraph No. 18 of the said judgment reads as under :

“18. The above-mentioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of Section 498 A Indian Penal Code and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long term ramifications of a trial on the complainant as well as the Accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this Court by way of its judgments has warned the courts from proceeding against the relatives and in-

laws of the husband when no prima facie case is made out against them.”

8. Learned APP also opposed the petition.

9. Considering the allegations, in the present case, it is seen the allegations against appellant nos. 1 and 2, *prima facie*. So far as petitioner nos. 3 to 5 are concerned, the allegations would not attract ingredients of Section 498-A of IPC, and other Sections alleged in complaint. This Court is, therefore, inclined to allow the Writ Petition.

10. Writ Petition, therefore, stands allowed. The impugned judgment and order is quashed and set aside to the extent of petitioner nos. 3 to 5. The order of issuance of process dated 11.04.2022, passed by the learned Additional Chief Judicial Magistrate, Basmath, in RCC No. 204/2018, is hereby quashed and set aside to the extent of petitioner nos. 3 to 5. Petition thus, stands disposed of.

(KISHORE C. SANT, J.)

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