

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1529 OF 2016

1. Janardhan Yellayya Mittapally,
2. Mrs.Anusuya Yellayya Mittapelly
Petitioners

versus

The State of Maharashtra and others

Respondents

Ms.Ratna R. Jaiswal for Petitioners.
Mrs.S.V.Sonawane, APP, for State.

CORAM : NARESH H. PATIL AND
PRAKASH D. NAIK, JJ.

DATE : 26th July 2016

PC :

1. Heard. The Petitioners are accused in a criminal case. On the alleged unnatural death of one Mrs.Harik-the daughter of Respondent no.3 herein, both the Petitioner no.1 and his mother Petitioner no.2, were prosecuted by Police and a charge sheet came to be filed for the offences punishable under Sections 498A, 304(B) read with Section 34 of Indian Penal Code. Learned counsel for the Petitioners submits that the charge was framed by the Trial Court in July 2014 and application for discharge preferred by the Petitioners came to be rejected by the Trial Court on 15 October 2015. The Petitioners have not placed both these orders before us.

2. The Petitioners have approached this Court with a prayer to quash the charge sheet in Sessions Case No.385 of 2014 under CR No.20 of 2014 under Sections 498A and 304(B) of Indian Penal Code ('IPC').

3. Learned counsel for the Petitioners submits that initial statements recorded and subsequent statements recorded on 29 January 2014, are at variance. At the initial stage, there was no allegation attracting provisions of Section 304(B) of IPC. Later on, the prosecution witnesses added a theory of demand of dowry, which was an after thought.

4. Learned APP submits that issues raised by the Petitioners are required to be appreciated after a full fledged trial is conducted and the evidence is led by the prosecution.

5. We have perused the record. We find that in the facts of the case, it will not be appropriate to scan the evidence to determine as to whether the charge levelled against the Petitioners for offence punishable under Section 304(B) is maintainable or not. Considering the nature of allegations made and the material collected, it would be appropriate to observe that the Trial Court would deal with the evidence and take appropriate view of the matter in accordance with law. In the facts, therefore, we are not inclined to invoke our jurisdiction to interfere in the matter.

6. Keeping all issues on merits open, the petition stands dismissed.

(PRAKASH D. NAIK, J.)

(NARESH H. PATIL, J.)

MST