

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.3048 OF 2016

Mrs. Pramodini Pansare & Ors.

.... Petitioners

versus

State of Maharashtra

... Respondent

Mr.Sujit B. Shelar, Advocate for the Petitioner.

Mrs. P.P. Shinde, APP for the State/Respondent.

CORAM : MRS.MRIDULA BHATKAR, J.

DATE : 08th DECEMBER, 2016.

P.C. :

1. This Criminal Writ Petition under Article 227 of the Constitution of India is preferred for quashing and setting aside the order dated 26/12/2014 passed by the learned Additional Chief Metropolitan Magistrate, 5th Court, Dadar, in C.C. No.327/PW/09 and order dated 12/07/2016 passed by the learned Additional Sessions Judge in Criminal Revision Application No.124/15. The petitioners are prosecuted by the Magistrate for the offences punishable u/s 498-A r/w 34 of IPC. The Petitioner Nos.1 and 2 are mother-in-law and father-in-law and petitioner Nos.3 and 4 are the sisters-in-law of the complainant. The

complainant and her husband started residing in the house at Goregaon. At that time her husband, mother-in-law i.e. the petitioner No.1 asked her to buy a block, out of her own income. There was continuous harassment and torture by husband and mother-in-law, petitioner No.1 for the block. There was demand of money by them and also she used to pay Rs.3,000/- per month to her husband. When she remained pregnant and thereafter her miscarriage took place, that time her husband recovered the hospital charges from her. The mother-in-law and father-in-law i.e. the petitioner Nos.1 and 2, so also the sisters-in-law i.e. the petitioner Nos.3 and 4 were abusive and caused a mental torture to her. Thereafter she delivered a baby in January 2007 and then there was continuous harassment by petitioner Nos.1 and 2 for buying a separate house for her and her husband. In May 2008 she shifted in the rented premises. However, she and her husband could not get alongwith. So she left the said house in March 2009. Thereafter the original complainant gave information to the police pursuant to which the offence was registered at C.R.No.179/09 at Shivaji Park Police Station, Mumbai on 11/06/2009 against her husband and present petitioners u/s 498-A r/w 34 of IPC.

Thereafter chargesheet was filed and discharge application u/s 239 moved before the trial Court, was rejected by the additional Chief Metropolitan Magistrate, 5th Court, Dadar, Mumbai on 26/12/2004 and thereafter revision preferred against the said order was also dismissed on 12/07/2016 by Additional Sessions Judge, Mumbai.

2. The learned counsel for the petitioners has submitted that there is no evidence against these petitioners. The original complainant is falsely implicated these petitioners. He submitted that petitioner Nos.3 and 4 who are the sisters-in-law of the original complainant, were not residing with their parents i.e. the petitioners. They were residing with their respective husbands at their respective residence and there was no question of torturing the original complainant. He further submitted that the mother-in-law, the petitioner No.1 and father-in-law, the petitioner No.2 are old i.e. 75 and 84 years old. The main grievance of the original complainant is against her husband and not against these petitioners. He further submitted that there was issue of paucity of space as the family of four persons was residing in a small one

bedroom kitchen hall, standing in the name of the father. The father wanted his son i.e. the husband of the original complainant and daughter-in-law, the complainant to live in separate residence. There was no harassment on the part of the petitioners and therefore the petitioners be discharged.

3. The learned prosecutor opposed this application. She relied on the FIR, wherein the complainant has made allegations of abuse and torture against the petitioners. She also relied on the statement of the mother of the complainant Mrs.Sharayu Yashwant Bhagat and statement of one Mrs.Vaishaili Dhirendra Pateria.

4. Perused the FIR and so also the statements of the mother, the sister and also one other witness Shashikant Harishchandra Garkal. Prima facie there are some specific allegations of torture against the petitioner No.1. So her case cannot be considered at this stage. However, in the FIR it appears that the allegations made against the petitioner Nos.3 and 4 cannot be said to be the torture or harassment. Her grievance is that her father-in-law asked her to stay separately and take other

house. It appears that the petitioner Nos.1 and 2 refused to do baby sitting of her daughter immediately after her delivery. So she was offended. It is mentioned that the gestures of the father-in-law i.e. the petitioner No.2 were aggressive. It transpires from the statements, specially from the statement of mother Mrs.Sharayu Bhagat that, the father-in-law i.e. the petitioner No.2 on the date of Rakhi Pournima in 2007, was aggressive and told that she and her husband should not stay in the house as the said block exclusively owned by him. Thus, this behaviour cannot be treated as torture or cruelty. One needs to take into account that the petitioner No.2 father-in-law was the real owner of the said block and there was the paucity of space. In view of this and considering the statements in the chargesheet, I am of the view that there is no sufficient evidence to frame charge against the petitioner Nos.2, 3 and 4 and therefore they need to be discharged. Hence the order passed by the learned trial Court and the order of Sessions Court in the revision is hereby quashed and set aside.

(MRIDULA BHATKAR, J.)