

**IN THE HIGH COURT OF BOMBAY AT GOA**

**CRIMINAL WRIT PETITION No. 80 OF 2016**

Mrs. Manasi Shah  
Wife of Mr. Chirag Shah  
Aged 35 years, Indian National  
R/O C 203, Saidham Chs  
Near Pooja Blood Bank  
P. K Extn, Mulund  
Mumbai – 400 080.

**... Petitioner**

*Versus*

1. State of Goa  
Through the Police Inspector  
Mapusa Police Station  
Mapusa, Bardez, Goa
2. Mrs. Ashwini Varunkumar Joshi  
Daughter of Mr. Arun Krishna More  
Major of Age, Indian National  
R/O Saraswati Building  
Govind Nagar, Karaswada,  
Mapusa, Bardez, Goa.

**... Respondents**

Mr. Salil Saudagar, Advocate for the petitioner.  
Mr. S. R. Rivankar, Public Prosecutor for Respondent no. 1.  
Mr. Ryan Menezes with Ms. C. Ribeiro, Advocate for Respondent no. 2.

**Coram:- F. M. REIS &**  
**NUTAN D. SARDESSAI, JJ.**

**Date: 05<sup>th</sup> June, 2017.**

**ORAL JUDGMENT: (Per F. M. REIS, J.)**

Heard Mr. Salil Saudagar, learned Counsel appearing for the Petitioner,  
Mr. S. R. Rivankar, learned Public Prosecutor appearing for the Respondent

no. 1 and Mr. Ryan Menezes, learned Counsel appearing for the Respondent no. 2.

2. The above Petition, inter alia, seeks to quash the FIR and the Chargesheet filed by the Respondent no. 1 in the Court of the JMFC at Mapusa, for alleged offences punishable under section 498A, 409, 506 and 509 of the Indian Penal Code.

3. The learned Counsel appearing for the Petitioner has strenuously argued that no offence under section 498A can be attributed to the Petitioner as, admittedly, the Petitioner is not a relative of the Complainant to attract such provisions. In support of such submission the learned Counsel has relied upon the Judgment of the Apex Court reported in **2010 Supreme Court Page 190** in the case of *Sunita Jha versus State of Jharkhand And Another*. The learned Counsel has thereafter taken us minutely through the complaint to point out that there are no allegations made therein which can even remotely attribute insult to the modesty of the Respondent no. 2. The learned Counsel has pointed out that the allegations by the Respondent no. 2 do not disclose that she has suffered mental agony and cruelty, which according to him, are ingredients of an offence punishable under section 498A of the Indian Penal Code. The learned Counsel further points out that as the ingredients of section 509 of the Indian Penal Code are not made out

in the complaint, the FIR as well as the Chargesheet filed against the Petitioner deserve to be quashed and set aside.

4. On the other hand, Mr. S. R. Rivankar, the learned Public Prosecutor, appearing for the Respondent no. 1 submits that as the Chargesheet has already been filed the Petitioner is at liberty, if so advised, to raise such contention before the charges are framed by the learned Magistrate. The learned Public Prosecutor further submits that new material has been produced to substantiate that the Petitioner is also involved in the offenses punishable under section 509 of the Indian Penal Code.

5. Mr. Ryan Menezes, learned Counsel appearing for the Respondent no. 2 points out that the words used in section 509 is insult to modesty and not outrage the modesty of a woman and as such, the acts referred to in the complaint would clearly lead to insult to the modesty of Respondent no. 2. Learned Counsel further submits that the question of exercising extraordinary jurisdiction by this Court at this stage would not at all be justified as the Chargesheet has already been filed and the Petitioner, if so advised, can raise such contention before the learned Magistrate.

6. We have considered the submissions of the learned Counsel and we

have also gone through the records. Having heard the rival contentions and examining the material on record, we find that this is not a fit case for interference in our extraordinary jurisdiction under section 482 of the Criminal Procedure Code and Article 226 of the Constitution of India. Though the Petitioner may be justified to contend based on the Judgment in the case of *Sunita Jha versus State of Jharkhan And Another* of the Apex Court (Supra) that as the Petitioner is not a relative of the Respondent no. 2, the offences under section 498A of the Indian Penal Code may not be attracted, nevertheless, considering the view we are proposing to take, these aspects can be raised and examined before the JMFC before framing of charge. We shall not proceed to make any further observation in the above Petition as it may prejudice the case of the parties in case such contentions are raised before framing of charge. Keeping the contentions of both the parties open, liberty to the Petitioner, if so desired, to raise all the contentions before the learned Magistrate. The above Petition is disposed of.

**NUTAN D. SARDESSAI, J.**

**F. M. REIS, J.**

msr.