

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 41 OF 2017

Mrs. Connie Walter D'souza

....Petitioner

V/s.

The State of Maharashtra

and anr.

....Respondents

* * * * *

Mr. Sayed Shehzad Abbas Naqvi, Advocate for the
petitioner.

Mr. K.V. Saste, Addl. P.P. for the State, respondent.

CORAM :-

R.M. SAVANT, &

SANDEEP K. SHINDE, JJ.

DATE :-

23RD JANUARY, 2018.

P.C. :-

1. Rule. Rule is made returnable forthwith. By consent of the parties, taken up for hearing.
2. The daughter-in-law has lodged a complaint

against the petitioner and her son under Section 498A and 406 of the Indian Penal Code with the Powai Police Station vide C.R. No. 178 of 2016. The petitioner, mother-in-law of the complainant, thus seeks quashment of the FIR by filing this petition under Article 226 of the Constitution of India read with Section 482 of the Criminal Procedure Code. On 10th January, 2017 a Division Bench of this Court directed not to file the chargesheet, however, investigation was continued. Notice was issued to the respondent no.2, the original complainant, which was duly served.

3. Heard Learned Counsel for the petitioner and the Learned APP for the State. Perused the FIR and the record of the investigation. Neither the FIR nor any material uncovered during the investigation attributes any role to the present applicant to hold that she has committed offence punishable under Section 498A or Section 406 of the Indian Penal Code. The marriage of the complainant was solemnised with the son of the petitioner in October, 2007. Out of the said wedlock, two children were born. It

appears from the statement of the complainant that, during the first eight years, there were no quarrels or differences between her and her husband. The only allegation against the present petitioner is that, "she would taunt her time and again and used to tell that, she was getting good brides for her son who were ready to bring lots of money". Except such statement in the complaint, there is nothing on the record to indicate that the petitioner was making any unlawful demand from the complainant and for the non-compliance she was harassing her. We therefore hold that, the averments in the complaint, as well as, the record of investigation does not disclose even, prima-facie, or otherwise that the petitioner has committed any offence under Section 498A.

. So far as the offence under Section 406 is concerned, the allegations in the FIR are against the husband. There is nothing in the complaint nor in the material uncovered in the investigation, to indicate that, there was any entrustment of the ornaments by the

complainant to the petitioner so as to attract the penal provisions of Section 406 of the Indian Penal Code. In that view of the matter, we are allowing this petition in terms of prayer clause (a) and as such the proceedings arising out of the FIR No. 178 of 2016 dated 31st March, 2016 registered with the Powai Police Station are hereby quashed and set aside. Rule is discharged.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)