

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 3841 of 2015

Nanaji Nathu More and ors .. Petitioners
Versus
The State of Maharashtra & Anr .. Respondents

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Mr.Tushar Sonawane for the petitioners.

Mr.Rohan R. Sonawane for respondent no.2.

Mr.S.R.Shinde, APP for the State.

CORAM: SHRI RANJIT MORE &
SMT. BHARATI H.DANGRE, JJ.
DATED : 17th SEPTEMBER 2018

JUDGMENT (Per Bharati H. Dangre, J)

1 Rule. Rule made returnable forthwith. Heard By
consent of the parties.

At the outset, the learned counsel for the petitioner Shri Tushar Sonawane seeks leave of this Court to delete the petitioner nos.1 to 3 from the array of the petitioners and title and seek permission of this Court to treat the present petition as being filed by the petitioner no.4 Rupali Nathaji More (original petitioner no.4) as the sole petitioner.

2 By the present petition, the petitioner has sought a relief of quashment of the FIR bearing C.R.No. I-196/2011 registered at Satana Police Station, Taluka Baglan, District Nashik at the instance of the respondent no.2 on 29th December 2011, alleging offences punishable under Section 498A, 323, 504, 506 of the IPC. Relief is also sought for quashment of the proceedings which are pending before the Court of Judicial Magistrate, First Class, Satana, pursuant to the charge-sheet filed by the police.

3 The petitioner no.4 - Rupali is the sister-in-law of the respondent no.2. The respondent no.2 had filed a complaint vide private Criminal Case No.177 of 2011 in the Court of Judicial Magistrate First Class, Satana and who made it over to the Police Inspector, Satana for investigation under Section 156(3) of the Code of Criminal Procedure. As per the allegation in the complaint, the respondent no.2 is legally wedded to Shri Manoj Nanaji More who is the brother of the petitioner no.4 in the year 2010. The complaint preferred on 1st October 2011 proceeds to state that after marriage, the

complainant started residing at Shramik Nagar, Nashik, in a joint family and from the very inception, she was harassed by all the accused persons by abusing and torturing her physically and mentally. It is also alleged in the complaint that all the accused persons used to ask the complainant to bring *Mahindra Logan car* from her parental house and that was the cause of harassment meted out to her. It is also alleged that the mother-in-law used to assault her by *chappal* and the husband used to assault her and father-in-law, brother-in-law and sister-in-law i.e. present petitioner no.4 also used to abuse her and assault her. The complaint therefore, alleges that she was subjected to physical and mental cruelty and therefore, she requested the Magistrate to take cognizance of her complaint under Section 156(3) of the Cr.P.C.

As already observed above, based on the said complaint, the FIR came to be registered and the allegations were investigated by the police resulting into filing of a charge-sheet against all the accused persons and being aggrieved, the petitioner no.4 has approached this Court for quashing of the proceedings initiated against her.

4 The substratum of the argument of the learned counsel for the petitioner is that the perusal of the complaint would reveal that the allegations levelled against the petitioner no.4 are vague and do not disclose *prima facie* offence. The submission of the learned counsel is that the allegations are not specific and categorical and even reading of the complaint as it is, *prima facie*, would lead to an irresistible conclusion that the ingredients of Section 498A of the IPC are not made out from the said complaint, qua the present petitioner no.4.

 Learned counsel for the petitioner would also submit that the petitioner was from the very beginning staying at Pune for preparing for the competitive examination and she has been dragged by the complainant falsely in order to damage her career. It is also specifically stated in the petition and also argued by the learned counsel for the petitioner that the petitioner is selected for the post of PSI in the office of Finger Print Bureau in Crime Investigation Department, but for the offence being registered against her and she facing a trial, there is a likelihood that she may not be considered for

appointment on her selection to the said post. In such circumstances, he would submit that in view of the vague and bald allegations made against the petitioner, the petitioner should not be made to undergo the rigmarole of trial and then, seek an acquittal but when a *prima facie* case is made out by her that the allegations levelled against her are not substantiated by citing any specific incident, but they being vague in nature, the learned counsel for the petitioner prays that the FIR should be quashed.

5 We have heard learned counsel for the respondent as well as the learned APP and with the assistance of the parties. We have carefully perused the charge-sheet filed by the Satana Police Station.

Perusal of the complaint would reveal that the allegations that have been made in the complaint dated 1st December 2011 preferred by the complainant do not give any specific instance of harassment, either physical or mental, at the instance of the petitioner no.4. There are omnibus allegations levelled against all the in-laws i.e. father-in-law, mother-in-law,

brother-in-law and sister-in-law i.e. the present petitioner and the husband. It is vaguely alleged that she was subjected to physical and mental harassment for the purpose of demand of a vehicle and it is alleged that from the very beginning i.e. after solemnization of the marriage in the year 2010, she was subjected to such harassment. It is pertinent to note that the complainant was married on 14th June 2010 and thereafter, from 21st July 2011, according to her own complaint, she left for her parental home and lodged a complaint on 1st December 2011. There is no specific allegation levelled against the present petitioner no.4 and the allegation that is levelled, is unspecific.

In order to satisfy the ingredients of Section 498A of the IPC, the complaint must reveal that the woman was subjected to cruelty and cruelty would encompass such willful conduct which is of such nature as is likely to drive the woman to commit suicide; or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman, or subjected to such harassment with a view to coerce her or any person related to her to meet an unlawful demand for any

property or valuable security or is on account of failure by her or any person related to her to such a demand. Perusal of Section 498A would reveal that the harassment or torture inflicted on the woman should be of grave nature and which is expected to be something more than a normal wear and tear of a marital life. The gravity of the accusation must be clearly reflected in the complaint and whenever allegations are made against the relatives of the husband, then the complaint must specify the harassment or cruelty inflicted at the instance of such a relative. The allegations in the complaint should make out a specific case against the relatives and mere naming such a relative without attributing any specific role is not sufficient.

The Hon'ble Apex Court in *Kailash Chandra Agrawal and anr Vs. State of Uttar Pradesh & ors*,¹ has made the following observations:

“We have gone through the FIR and the criminal complaint. In the FIR, the appellants have not been named and in the criminal complaint they have been named without attributing any specific role to them. The relationship of the appellants with the husband of the

¹ (2014) 16 SCC 551

complainant is distant. In ***Kans Raj Vs. State of Punjab, (2000) 5 SCC 207***, it was observed :

“5 A tendency has, however, developed for roping in all relations of the in-laws of the deceased wives in the matters of dowry deaths which, if not discouraged, is likely to affect the case of the prosecution even against the real culprits. In their over enthusiasm and anxiety to seek conviction for maximum people, the parents of the deceased have been found to be making efforts for involving other relations which ultimately weaken the case of the prosecution even against the real accused as appears to have happened in the instant case”

Further, in a latest judgment of the Hon'ble Apex Court in case of ***K. Subba Rao & Ors Vs. State of Telangana through its Secretary, Home Department & ors²***, Their Lordships while dealing with the allegations about physical and mental torture being inflicted observed thus :

“A perusal of the charge-sheet and the supplementary charge-sheet discloses the fact that the Appellants are not the immediate family members of the third respondent/husband. They are the maternal uncles of the third respondent. Except the bald statement that they supported the third respondent who was harassing the second respondent for dowry and that they conspired with the third respondent for taking away his child to the U.S.A, nothing else indicating their involvement in the crime was mentioned. The appellants approached the High Court when the investigation was pending. The charge sheet and the supplementary charge-sheet were filed after disposal of the case by the High Court.

² Cr.Appeal 1045/18 decided on 21/8/2018

*Criminal proceedings are not normally interdicted by us at the interlocutory stage unless there is an abuse of process of a Court. This Court, at the same time, does not hesitate to interfere to secure the ends of justice. See **State of Haryana V. Bhajan Lal 1992 Supp.(1) 335**. The Courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out. See **Kans Raj Vs State of Punjab & ors (2000) 5 SCC 207** and **Kailash Chandra Agrawal and Anr Vs.State of Uttar Pradesh & Ors. (2014) 16 SCC 551**.*

6 When the facts of the present case are construed in light of the aforesaid authoritative pronouncements, it is clear that the allegations made in the complaint against the petitioner no.4 falls short of the case being made out under Section 498A and the implication of the present petitioner in the criminal case, according to us, is highly unwarranted and amounts to an abuse of process of the Court. In such circumstances, the present petitioner who is a young girl of 31 years and who has a bright future, cannot be made a scapegoat and she should not be made to lead her life of being an 'accused' till she undergoes the said lengthy journey of

procedure and seek an acquittal on going through the whole process, when the allegations against her cannot be proved at all on culmination of a trial. This Court is competent enough to invoke its power under Section 482 of the Code of Criminal Procedure to quash the proceedings initiated against her, which according to us, do not satisfy the ingredients of the sections of which she is charged with, and therefore, in our considered view, in order to secure the ends of justice, it would be appropriate to quash the said proceedings initiated against the petitioner no.4.

7 In the result, we quash and set aside the Criminal Case No.100 of 2012 pending before the Court of Learned Judicial Magistrate First class, Satana arising out of the charge-sheet no.23 of 2012 filed by the Satana Police Station against the present petitioner.

Rule is made absolute in terms of prayer clause (bb) as against the petitioner no.4.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)

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