

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

CRIMINAL WRIT PETITION NO.4590 OF 2017

**Amit Sukhraj Daiya and ors. : Petitioners.
Versus
State of Maharashtra and ors. : Respondents.**

**Mr. Uzair Kazi a/w Mr. Mohammed W Qureshi i/by Mohammed Aftab
Qureshi for the Petitioners.
Mr. F R Shaikh Addl. PP for the Respondent/State.
Ms. Ameeta Kuttikrishnan for the Respondent No.3.**

**CORAM : R. M. SAVANT &
SANDEEP K SHINDE, JJ.
DATE : 12th FEBRUARY 2018**

P.C.

1 We are informed by the learned Additional Public Prosecutor Shri F R Shaikh that the charge sheet has been filed in April 2017 and that the Criminal Case in question is at the stage where the charge is to be framed against the Petitioners. The offences alleged against the Petitioners are one under Sections 498A, 406, 323 r/w 34 of the Indian Penal Code.

2 It appears that the parties were also involved in proceedings before the Family Court, Bharatpur, Rajasthan in which proceedings an ex-parte decree was passed in favour of the Petitioner No.1 husband as a result of which the Respondent No.3 herein had filed an Application under Order IX Rule 13 of the Code of Civil Procedure for setting aside the said ex-parte decree. The said ex-parte decree was accordingly set aside and the matter was

relegated back to the Family Court. However, the Petitioner No.1 has filed an Appeal from Order against the order setting aside the ex-parte decree in the High Court of Rajasthan, and that the same is pending and there is a stay operating in favour of the Petitioner No.1.

3 Be that as it may, having regard to the fact that in the instant case the proceedings are at the stage where the charge is to be framed against the Petitioners, we do not deem it appropriate to interdict in our writ jurisdiction. However, it is required to be noted that the Petitioner No.2 who is the mother of the Petitioner No.1, and the Petitioner No.3 who is the father of the Petitioner No.1 are both over 60 years of age and have to travel from Bikaner to Mumbai to attend the proceedings. Hence if any application for exemption is filed by them the said application would be considered appropriately by the Trial Court. In so far as the application for discharge that may be filed by any of the Petitioners, the same would also be tried on its/their own merits and in accordance with law. With the observations as afore-said, the above Writ Petition is disposed.

[SANDEEP K SHINDE, J]

[R.M.SAVANT, J]