

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

WRIT PETITION NO.4193 OF 2018

Ashok Sambhaji Giranje and Anr. ...Petitioners

vs.

The State of Maharashtra and Anr. ...Respondents

Mr. Shirish Gupte, Senior Counsel a/w Mr. Sachin H. Deokar for the Petitioners.

Mr. Deepak Thakre, PP a/w. Smt. S. D. Shinde, APP for the Respondent/State.

Ms. Manisha A. Devkar for the Respondent No.2.

**CORAM : B. P. DHARMADHIKARI &
SMT. S. S. JADHAV, JJ.**

DATE : 18/11/2019.

PC.:

. Petitioner No.1 and Petitioner No.2 are the father and the son, relative of deceased. They are before this Court for quashing of chargesheet vide C. R. No.71/2017 for offences punishable under section 304(B), 306, 498(A), 323, 504, 506 read with 34 of IPC. The contention is petitioners reside separately and therefore are not part of the family with which deceased was residing. They had issued legal notice in professional capacity and because of said role played by them only they have been falsely implicated in the matter. It is further submitted that as they are not family members, the provisions of sections 498(A), 304(B) and 306 of IPC are wrongly applied.

2. Against that learned APP and learned counsel for Respondent No.2 are strongly opposing intervention by this Court. They pointed out that in earlier FIR lodged on 26/10/2016 specific roles are assigned to the

petitioners and harassment/ill-treatment or humiliation faced by the deceased at their hands has been brought on record. In latter FIR which forms subject matter of the present proceeding the role including physical assault has been pointed out.

3. With the assistance of learned counsel we have perused papers. It appears that petitioners as also other accused persons are close relatives residing in the same village. First legal notice is issued by the petitioners on 21/10/2016 and thereafter in FIR lodged on 21/10/2016 specific grievance has been made by deceased against them. This FIR is under section 498(A), 354, 452, 323, 504, 506 and 34 of IPC. The deceased has also pointed out the harassment by petitioner No.2 and his wrong conduct with her.

4. In the backdrop of these allegations, the petitioners have issued other notice on 15/11/2016,

5. The chargesheet questioned before this Court is dated 27/6/2017 and this chargesheet mentions number of FIR as C. R. No. 71/2017 dated 13/2/2017. Statement of Savta S. Mishal in support thereof shows ill-treatment faced by deceased Sonali and therein role of present petitioners has also been described.

6. In this situation, at this stage we cannot embark upon the exercise to find out whether latter involvement of petitioners is only on account of legal notice issued by them. No such inference can be drawn at this stage.

7. We however keep that contention open and with liberty to petitioners to raise it at appropriate juncture before trial Court, we dispose

of the present matter.

(SMT. S.S. JADHAV, J.)

(B. P. DHARMADHIKARI, J.)