

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.609 OF 2021

Meerabai Bapusaheb Khodal & Ors. .... Petitioners

versus

State of Maharashtra & Anr. .... Respondents

.....

- Mr.Vivek Salunke, Advocate for Petitioner.
- Mr.J. P. Yagnik, APP for State/Respondent.
- Mr.Deepak Gupte, Advocate for Respondent No.2.

CORAM : NITIN JAMDAR &  
SARANG V. KOTWAL, J.

DATE : 7 DECEMBER 2021

P.C. :

. By this Petition the Petitioner has sought to quash the  
FIR with following prayer

MANUSHREE  
V  
NESARIKAR

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“a) By suitable writ, order or direction this  
Hon’ble Court be pleased to quash the  
subject FIR against the Petitioners i.e. FIR  
No.0078 of 2020 registered with Bharati  
Vidyapeeth Police Station, Pune for the  
alleged offence u/s. 306, 498A, 504, 506  
and r/w. 34 of I.P.C.”

Nesarikar

2. The Petitioner No.1 is the mother-in-law of the deceased Sonali. The Petitioner Nos.2 and 3 are her sisters-in-law and brothers-in-law. The FIR was lodged on 14 January 2020 by the father of the deceased Sonali under section 306, 498-A, 504, 506 r/w 34 of the Indian Penal Code.

3. The allegations in the FIR are that Sonali was married to the son of Petitioner No.1 Deepak Khodal on 4 July 2014 as per the traditions ceremonies. The Respondent No.2 gave gifts in the wedding to the Petitioners as per the customs. The Petitioners were threatening the deceased Sonali that she has brought back luck to the family and if she maintains any contact with her parental home, she will be killed. The informant paid around Rs.5 lakhs for purchase of flat for Sonali. In 2016, Sonali delivered a girl child and the Petitioners and the husband of Sonali started harassing her. On Dipawali Festival everyone was given gift by the Petitioner. But Sonali and her daughter were not given any gift and were excluded. Sonali took this to her heart and she was cronicallly depressed. She was also forced to eat non-vegetarian food. On 25 December 2019, again the Petitioners and rest of her in-laws quarreled with Sonali and left her alone and travelled to Goa for holiday. All these acts cumulatively affected Sonali. Sonali narrated this to her father on phone. On 25 December 2019, the informant went to meet Sonali

and returned on 27 December 2019. On 27 December 2019, when the informant tried to contact her she did not pick up the phone. The informant sent his son Amol, i.e. brother of Sonali, to go to the flat and find out what has happened to her. He found that Sonali hanged herself on a ceiling fan and committed suicide. On this allegation, FIR is filed, which is sought to be quashed.

4. The learned counsel for the Petitioners submitted that recitals in the FIR are taken in cumulatively, there is nothing imputed as against the Petitioners. He submitted that the Petitioners were not residing with the deceased Sonali and the instances narrated therein are trivial and cannot be considered as mental cruelty. The learned counsel for the Respondent submitted that the Petitioners were not traceable and therefore their statements could not be recorded and thereafter the Petitioners have sought anticipatory bail. He submitted that the FIR clearly attributes cruelty and it cannot be said that no offence is made out.

5. The Petitioners have invoked extra-ordinary jurisdiction of this Court under Article 226 of Constitution of India and under section 482 of Code of Criminal Procedure. Though this Court has power to quash the FIR in a cognizable offence, this power is to be exercised in exceptional circumstances and not in a routine manner. To the narrations in the FIR, in detail various acts of mental cruelty

have been imputed, which indicate pattern and consistent mental cruelty. The FIR shows that it is a cumulative effect of the cruelty that is the cause of committing suicide as stated in the FIR. Furthermore the FIR need not contain all the details minutely. This would be a matter of investigation. As regards the arguments that the Petitioners not staying with the deceased Sonali is concerned, it is not legal position that for committing mental cruelty continuous physical proximity is necessary. It is the impact of the acts that has caused the mental cruelty. It cannot be stated that instances are trivial especially threats of not to keep in touch with the parental home and continuously alienating the deceased on account of the deceased delivering a girl child.

6. Therefore we are not in agreement with the contention that the FIR lodged cumulatively, makes out no offence. It is for the Petitioner to establish their defence at the time of trial. Exercise of the extra-ordinary jurisdiction by this Court in this case is not warranted.

7. Writ Petition is rejected. As a result of rejection of Writ Petition, the Interim Application is also disposed of.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)