

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2553 OF 2019

Suman Kumari Mithilesh Kumar Sharma
and another

Petitioners

versus

The State of Maharashtra and another

Respondents

Mr.Prashant Raul i/by Mr.Kalesh U. Patil, Advocate for petitioners.
Mr.Anurag Ghag, Advocate for respondent no.2
Mr.S.R.Agarkar, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 15th July 2022

PC :

1. The petitioners are arraigned as accused in FIR dated 12th August 2014 registered at the instance of respondent no.2 with Bharti Vidyapeeth Police Station for offence under Section 498A r/w 34 of Indian Penal Code. The petitioners are mother-in-law and sister-in-law of the complainant. The marriage between respondent no.2 and accused no.1 was performed on 15th November 2008. The complainant has alleged that all the accused used to cause harassment to the complainant. The petitioners used to visit matrimonial home of the complainant and ill-treat her. There was demand of money, abuses which resulted in physical and mental torture.

2. The petitioners preferred application for discharge before the Court of JMFC, Court no.4, Pune which has been rejected by order dated 2nd July 2018. Thereafter petitioners preferred Revision

Application No.334 of 2018 before Sessions Court. The said application was rejected vide order dated 2nd April 2019.

3. Learned advocate for petitioners submits that no case is made out against petitioners for offence u/s.498A of IPC. The petitioners were not residing with the complainant. The allegations against petitioners are vague. No date of incident is mentioned. The statements of witnesses do not corroborate the version of complainant. The accused cannot be compelled to face prosecution in the absence of evidence.

4. Learned advocate for complainant-respondent no.2 and learned APP submitted that there is sufficient evidence against petitioners. This is not the stage to appreciate evidence. The complainant has categorically stated that petitioners had subjected her to cruelty. Learned Magistrate and Sessions Court have rejected the applications by assigning reasons. The statements of independent witnesses were recorded during the course of investigation. The witnesses-neighbours have supported the prosecution case. Reliance is placed on the decision of Supreme Court in case of **Taramani Parakh Vs. State of Madhya Pradesh** (2015-Cri.L.J.-2031) and the decision of this Court in the case of **Rajesh Himmat Pundkar and others Vs. The State of Maharashtra and another** (Criminal Appeal No.233 of 2022, decided on 8th June 2022).

5. I have perused the charge sheet and impugned orders passed by Courts of learned JMFC as well as Sessions Court. On perusal of the FIR and statements recorded during investigation it is apparent

that role has been attributed to the petitioners. The statements of learned counsel for petitioners that there are no specific allegations or that allegations are vague, cannot be considered at this stage. The petitioners are named in the FIR. It is alleged that they have caused harassment resulting in cruelty to the complainant. The submission that specific date of incident is not stipulated in the FIR, is not ground for discharge of petitioners. Learned Magistrate as well as learned Sessions Judge has rejected the applications of petitioners by assigning cogent reasons. In the circumstances no case is made out to grant relief in this petition.

6. The writ petition is dismissed and dispose of.

(PRAKASH D. NAIK, J.)

MST