

Versus

The State of Maharashtra and another ... Respondents

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Mr. Nitish Banka instructed by Mr. Manish Varma for the Petitioners.
Mr. J.P. Yagnik, APP for the State.

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CORAM : NITIN JAMDAR AND
N.R. BORKAR, JJ.

DATED : 3 AUGUST 2022

P.C. :-

By this Petition, the Petitioners are seeking to quash the FIR filed by the Respondent No.2 under Section 498A read with Section 34 of the Indian Penal Code. The Petitioner No.1 is the husband, Petitioner No.2 is mother-in-law and Petitioner No.3 is sister-in-law of the Respondent No.2.

2. It was put to the learned Counsel for the Petitioners as to whether the Petitioners are willing to explore possibility of amicable resolution of the dispute with the Respondent No.2. First the learned Counsel for the Petitioners on instructions of the Petitioner No.1

submitted that he is not ready and thereafter, after the matter was argued further stated the Petitioners are ready. When we were dictating the order to issue notice to the Respondent No.2 on that count, again Petitioner No.1 changed his stand and he is not ready for settlement and urged that the matter be heard on merits. Secondly, it was put to the learned Counsel for the Petitioners that the roles of the Petitioner Nos.1, 2 and 3 may be different and it would be prudent to file separate Petitions. The learned Counsel for the Petitioners took a stand that it is not necessary to do so, as the ingredients of Section 498A are not present against any of the Petitioners and insisted that the Petition as it is should be heard. Thereafter we proceeded to hear the matter on merits.

3. In the FIR, the Respondent No.2 has stated that from the beginning the Respondent No.2 was harassed on the ground of not paying sufficient amount in the marriage. Respondent No.2 has stated that her father had provided loan/funds for taking the house on rent and till date the said amount is not returned to the father of Respondent No.2. The learned Counsel for the Petitioners states that the primary allegation in the FIR is regarding the extra marital affair and not regarding Section 498A. However, the allegations in the FIR regarding harassment on the ground of not spending sufficient amount of money during the wedding and non return of Respondent No.2's father's investments for purchase of house on rent and the

consequent harassment would show the ingredients of Section 498A. Therefore, the arguments that the ingredients are not present at all in the entire FIR is not correct. Further, an FIR is not an encyclopedia. Whatever be the defence of the Petitioners the same would now be considered at the time of the trial.

4. The Writ Petition is rejected.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)

KANCHAN
PRASHANT
DHURI

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by KANCHAN
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Date: 2022.08.06
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