

3. The Applicant is not related to Respondent No.2-Complainant. The Applicant was a licensee in respect of a flat, which was let out by Respondent No.2's husband and in-laws in favour of the Applicant by way of Leave and License Agreement dated 31 August 2020. Subsequently, the period of Leave and License has expired after a period of one year and the Applicant has surrendered the possession and is no longer in possession.

4. An FIR was lodged by Respondent No.2 bearing No. 477 of 2020 on 11 September 2020. In the FIR, Respondent No.2 alleged that she was subjected to physical and mental cruelty by her husband Moinuddin, her brother-in-law and sister-in-law. She also made allegations against the brother of the father-in-law. She alleged that her husband and in-laws demanded dowry and took away stridhan and the property brought by Respondent No.2 from her father.

5. The Applicant received a notice on 19 October 2020 under Section 41 (A) of the Code to remain present at Khar Police Station. The Applicant applied for and was granted anticipatory bail by the Sessions Court on 23 October 2020. Thereafter, he has filed the present petition.

6. The learned Counsel for the Applicant submitted that admittedly the Applicant is not at all connected with the family of Respondent No.2 or her in-laws and he was a mere licensee for a

period of one year. He submitted that there is none of the offences referred to by Respondent No.2/ Complainant can even remotely arise in the case of the Applicant. He submitted that with the panchnama, stridhan and other ornaments have been returned to Respondent No.2- Complainant and keeping such a prosecution pending against the Applicant is an abuse of process of law and harassment. The learned Counsel for Respondent No.2- Complainant submitted that the investigation is still in progress and the Applicant is a part of a conspiracy and has abetted in-laws of Respondent No.2-Complainant. He submitted that therefore the investigation is necessary and the FIR should not be quashed.

7. The learned APP placed on record further statement of Respondent No.2-Complainant recorded on 26 September 2020. In the statement, it is stated that the husband and in-laws of Respondent No.2- Complainant have hatched a criminal conspiracy and have entered into a bogus Leave and License Agreement, which stated that the Applicant has not occupied but has kept two persons and, therefore, has asked that the Applicant is an unknown associate to be added as an accused.

8. The learned Counsel for Respondent No.2- Complainant and the learned APP had to accept that Section 498(A) does not apply to the Applicant. Arguments advanced before us is of a criminal

conspiracy. In the FIR, there is not even mention of any criminal conspiracy hatched by the Applicant and is also not named. It is not disputed before us that the Applicant had entered into a registered Leave and License Agreement, pursuant to which, the Applicant had taken possession of the premises legitimately. If Respondent No.2 had objection for letting out the flat on a Leave and License basis, the same could have been taken in the appropriate proceedings, but that does not make the Applicant, who is a licensee, an accused. It cannot be that every registered transaction entered into by the husband and in-laws of Respondent No.2 with the third parties like the Applicant is considered as conspiracy and are also roped in as accused like the Applicant. The Applicant, after the period of license was over after one year, is no longer in the premises.

9. In these circumstances, pendency of the prosecution against the Applicant is an abuse of process of law. A case for exercise of inherent and extraordinary jurisdiction is made out. Accordingly, the application is allowed in terms of prayer clause (a) and the FIR bearing No. 477 of 2020 and the resultant proceedings are quashed as against the Applicant.

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(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)