

3. At the out set it is necessary to note that by the order dated 07.07.2022 application to the extent of rest of the applicants except applicant No.3 has been dismissed. So we have to explore what role is attributable to the applicant No.3.

4. The learned advocate for the applicant submits that accepting the allegations in the FIR at its face value no specific role is attributable to the applicant No.3. The respondent No.2 had resided in the matrimonial home barely for 18 days and has thereafter left the company. The husband has even been able to obtain a decree of nullity of marriage on the ground that she was having a husband living when she performed marriage with present husband. It is highly unbelievable and therefore improbable that during this 18 days the applicant No.3 who happens to be the brother-in-law could have participated in subjecting her to cruelty at least there are no precise allegations against him.

5. It would be abuse of the process of Court if he is made to face the prosecution.

6. The learned APP and learned advocate Mr. Bora holding for Mr. Malpani strongly oppose the application. Learned APP submits that now that the charge-sheet has been filed opportunity deserves to be extended to prosecution to substantiate the charge by leading evidence.

7. We have carefully considered the rival submissions and perused the papers. Even according to the respondent No.2 as is mentioned in the FIR the marriage was solemnized on 24.05.2021 and she went back to the

parental home on 13.06.2021 meaning thereby that she could co-habit in the matrimonial home just for a period of 18 days.

8. Though the applicant No.3's name appears in the FIR, no importance can be attached to this fact since he has been named together with the rest of the applicants as the person with whom she alleges to have cohabited at the matrimonial home. Again, she alleges that applicant No.3 was also involved in instigating her husband to subject her to mental and physical torture and for demanding money. No allegations are being levelled about he himself having subjected her to any physical or mental ill-treatment.

9. Taking in account the aforementioned facts and circumstances, coupled with the facts that the respondent No.2 has not even contested the Hindu Marriage Petition wherein her husband sought declaration regarding nullity of the marriage, it would be abuse of the process of law to make the applicant No.3 face the prosecution.

10. The application to the extent of applicant No.3 is allowed and the Crime No.0137/2021 registered with Police Station Deogaon (Rangari), Tq. Kannad, District Aurangabad and the subsequent criminal case bearing R.C.C. No.24/2022 are quashed and set aside to his extent.

(ABHAY S. WAGHWASE, J.)

(MANGESH S. PATIL, J.)