

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

934 CRIMINAL WRIT PETITION NO. 1455 OF 2021

**PRATIK S/O SHANKAR SANGARE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

.....

Advocate for Petitioners : Mr. R. D. Bhalerao
APP for Respondent No.1-State : Mr. R. D. Sanap
Advocate for Respondent No.2 : Mr. Ramraje D. Kawade (appointed)

.....

**CORAM : SMT. ANUJA PRABHUDESSAI AND
R. M. JOSHI, JJ.**

DATE : 28 FEBRUARY 2023

PER COURT :-

1. At the outset, learned counsel for the petitioners seeks leave to amend the prayer clause as to incorporate the FIR number as well as R.C.C. number.
2. Leave granted. Amendment be carried out forthwith.
3. Since the offence is arising from a matrimonial dispute, the parties were directed to remain present before the Court to explore the possibility of an amicable settlement. Accordingly, petitioner no.1 has remained present. Learned counsel for respondent no.2 has stated that respondent no.2 has expressed her disinclination to appear before the Court.

4. Since settlement is not feasible, with consent, the matter is heard finally at admission stage.

5. This is a writ petition under Section 482 of the Code of Criminal Procedure (Cr.P.C.) to quash the FIR No. 403 of 2021 registered with Sangamner Taluka Police Station, District Ahmednagar and the consequential R.C.C. No. 106 of 2022 pending on the file of learned JMFC-2, Sangamner for the offence punishable under Sections 498-A, 354, 323, 504 , 506 r/w 34 of IPC.

6. It may be mentioned here that the petition has been withdrawn as against petitioner nos. 1, 2 and 3. Petitioner no.4 is the married sister-in-law of respondent no.2. The only question for our consideration is whether the contents of the FIR as well as other material, which form part of the charge-sheet, disclose any cognizable offence against petitioner no.4.

7. Heard learned counsel for the petitioners, learned APP for the State and learned counsel for respondent no.2.

8. The records reveal that marriage of respondent no.2 and petitioner no.1 was solemnized on 17.06.2018. She stayed in the matrimonial home for about 6 months and thereafter went to her parental home for delivery. She claims

that the petitioners did not treat her well while she was staying in her matrimonial home. She also states that the petitioners did not visit her after delivery. She claims that petitioners were not happy that she had given birth to a girl child and that for the said reason, she was constantly abused and kept hungry. She has also made certain allegations against petitioner no.2. She claims that in the month of November 2019, she had gone to her parental home and that her father-in-law and his friend had come there and said that she can return to her matrimonial home on condition that she would get Rs.15,00,000/- from her parents. She claims that she came to the matrimonial home on 18.11.2020 but she was not allowed to enter the house for having failed to bring the money as demanded by the petitioners.

9. The records reveal that petitioner no.1 had filed divorce proceedings on 16.03.2020. Respondent no.2 thereafter filed proceedings under the Protection of Women from Domestic Violence Act, 2005 on 11.12.2020 and filed FIR only on 18.09.2021 alleging that she was subjected to physical and mental cruelty. A perusal of the FIR reveals that the allegations are essentially against petitioner nos. 1, 2 and 3 who have already withdrawn the petition. Petitioner no.4 is married sister-in-law of respondent no.2. The FIR itself reveals that petitioner no.4 was not living in the matrimonial home of respondent no.2 and that she was living in her matrimonial home at Akole. Apart from some vague allegations, the FIR as well as other material on record

does not indicate that petitioner no.4 had in any manner subjected respondent no.2 to physical or mental cruelty, within the meaning of clauses (a) and (b) to the Explanation to Section 498-A of IPC. In our considered view, respondent no.2 has, unnecessarily dragged petitioner no.4 in her matrimonial dispute. Subjecting petitioner no.4 to face criminal trial on such unfounded allegations would, in our considered view, amount to abuse of the process of law. Hence, this is a fit case to exercise discretion under Section 482 of Cr.P.C. to prevent the abuse of process of law. In the result, the petition is allowed in terms of the amended prayer clause “C” *qua* the petitioner no.4. In consequence thereof, the FIR No. 403 of 2021 registered with Sangamner Taluka Police Station, District Ahmednagar and the consequential R.C.C. No. 106 of 2022 pending on the file of learned JMFC-2, Sangamner for the offence punishable under Sections 498-A, 354, 323, 504, 506 r/w 34 of IPC stand quashed *qua* the petitioner no.4. The petition is accordingly disposed off.

10. The fees of the appointed Advocate is quantified at Rs.6,000/-, to be paid by the High Court Legal Services Authority, Sub-Committee, Aurangabad.

(R. M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

VRE