

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

CRIMINAL WRIT PETITION NO. 1696 OF 2017

Dr. Leena Premraj Chavan
@ Leena Dinkar Badgujar

.. Petitioner

Versus

Premraj Rajaram Chavan
and others

.. Respondents

Mr. Satej S. Jadhav, Advocate for the Petitioner.
Mr. B. R. Kedar, Advocate for Respondent Nos. 1 to 4.
Smt. D. S. Jape, APP for Respondent No. 5.

CORAM : KISHORE C. SANT, J.

DATED : 23rd FEBRUARY, 2023.

P. C. :-

. This is petition filed by the wife challenging the judgment and order dated 10.05.2016 passed by the learned Additional Sessions Judge, Jalgaon in Criminal Revision Application No. 252/2015. The revision was directed against an order passed by the learned J.M.F.C., Jalgaon dated 01.12.2015 in Criminal Miscellaneous Application No. 947/2015. The criminal miscellaneous application was filed seeking directions under Section 156 (3) of the Code of Criminal Procedure (for short "Cr.P.C."). The learned Magistrate while passing the order has held that already there were complaints made by the wife under Section 498-A of the Indian Penal Code (for short "I.P.C.") where

the prosecution is pending. The learned Trial Court considered the judgments in the cases of (i) Lalita Kumari Vs. State of U.P reported in (2014) 2 SCC 1, (ii) Pratibha Rane Vs. Suraj Kumar dated 03.12.1985, (iii) Rashmi Kumar Vs. Mahesh Kumar Bhada dated 18.12.1996 and (iv) Arun Vyas Vs. Anita Vyas dated 14.05.1999 wherein, the Hon'ble Supreme Court has given the guidelines by considering the provisions of Section 156 (3) of the Cr. P. C. The learned Trial Court found that, the wife in a letter dated 15.04.2010 sent to her father had written that the gold ornaments given to her in the marriage were changed by in laws. It is further observed that, in complaint dated 17.03.2012 that was filed by the wife before Zilla Peth Police Station, Jalgaon there she has not mentioned about this fact. Thereafter, again in E-mail dated 06.04.2015, it is seen that, she had made demand. It was argued by the learned advocate before that Court that she realized for the first time in April 2015 that her Stridhan will not be given back to her. The Court specifically recorded that no case is made out even prima facie showing that the accused – in laws and the husband have committed any fault. The Court also considered the judgment in the case of **Priyanka Shrivastav and others Vs. State of U. P.** in Criminal Appeal No. 781/2012 dated 19.03.2015 and held that, unless it reveals that an offence is committed, no direction needs to be issued under Section 156 (3) of the Cr. P. C. The Court has specifically recorded that, no

offence appears to have been committed under Sections 406 and 120-B of the I.P.C. and rejected the application.

2. The learned Sessions Court in the revision also confirmed an order by specifically observing that, in earlier proceedings under Section 498-A of the I.P.C. and even under the Protection of Women from Domestic Violence Act (for short “Domestic Violence Act”) where multiple reliefs were prayed against the respondents. There also she did not make any allegation about the misappropriation of her Stridhan property nor claimed any relief for return of the property. The Court took note of criminal proceedings initiated and thus held that, in view of circumstances, no offence is made out. The petitioner has thus approached this Court on the ground that both the Courts below have committed wrong in not directing the police to investigate into an offence when the offence is made out.

3. Heard learned advocates for both the parties.

4. It is clearly seen from the record that, the wife had filed a complaint under Section 498-A of the I.P.C. with the Police Station. Pursuant to the lodging of FIR, even the charge-sheet was filed and the trial commenced. In that complaint, there were no allegations in respect of Stridhan. Thereafter, when the wife filed proceeding under

the Domestic Violence Act, even in that, there are no specific allegations against this Stridhan and no reliefs are claimed.

5. Though it is vehemently argued by the learned advocate for the petitioner that, the Court can take cognizance of an offence even after some delay if there are convincing reasons. He further submits that, in fact, in proceeding under Section 498-A of the I.P.C., there was an application filed for recall of a witness i.e. wife herself to deposing in respect of Stridhan. However, the same came to be rejected. Thus, it appears that, because the wife was not recalled under Section 311, now the complaint is filed. There was specific application moved below Exh. 202 for framing additional charge in the proceeding filed under Section 498-A of the I.P.C. i.e. R.C.C. No 369/2012 and the same was rejected. Even the revision is filed bearing Criminal Revision Petition No. 144/2017 and the same also came to be dismissed. Thereafter, Criminal Miscellaneous Application No. 296/2013 was filed and the same was also dismissed where there are allegations.

6. Learned advocate for respondents vehemently argued that, in fact, only after failing in earlier proceeding to make out a new case, the wife has now filed application just to harass the husband. He submits that both the Courts below have rightly considered all these aspects. He pointed out Exh. 202 that was filed in the proceeding under Section

498-A of the I.P.C. and thereafter the revision.

7. Having considered the submissions and after going through the order, this Court finds that, no illegality is committed by the learned Sessions Judge while passing the order. This Court does not find any perversity in the orders and in the reasoning given by the learned Sessions Judge. Consequently, this Criminal writ petition stands dismissed.

(KISHORE C. SANT, J.)

PS.B.