

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 357 OF 2022

Atul Kaluram Jadhav & Ors.

..Petitioners

Versus

Sapna Atul Jadhav & the State of Maharashtra

..Respondents

Mr. Prashant Patil, for the Petitioners.

Mr. S. V. Gavand, APP for the Respondent-State.

Mr. Drupad S. Patil, for Respondent No.2

**CORAM : NITIN W. SAMBRE &
RAJESH S. PATIL, JJ.**

DATE : 4th SEPTEMBER, 2023

PC.

1. The prayer is for quashing of the First Information Report (“**F.I.R.**”) No. 335 of 2021 registered with Kagal Police Station, Kolhapur, for the offences punishable under Sections 323, 498-A, 504, 506 read with 34 of the Indian Penal Code, 1960 (“**IPC.**”). The aforesaid complaint came to be lodged and offence was registered on 14th August 2021.

2. The case of the prosecution is, the Respondent No.1- Complainant got married with Petitioner No.1 on 24th May 2021.

Within two to three months of marriage, it is claimed that the Petitioners started ill-treating Respondent No.1-Complainant with demand of dowry which led to registration of the offence.

3. Petitioner No.1 is husband. Petitioner No.2 is his sister and Petitioner No.3 is husband of Petitioner No.2 on whose behalf proceedings are not pressed. Liberty to apply for discharge. Accordingly, the Petition stands disposed of in respect of Petitioner Nos. 1 to 3 with liberty to apply for discharge in case they are chargesheeted

4. As far as Petitioner Nos. 4 and 5 are concerned, the Petition No.4 is sister of Petitioner No.1 whereas Petitioner No.5 is mother in law.

5. A perusal of the F.I.R. depicts that the allegation against the Petitioners are only to the extent of calling Petitioner No.1 and instructing him to divorce the Respondent No.1-Complainant.

6. The fact remains that the F.I.R. does not disclose the time and date on which such incident has occurred. Apart from above, the claim in the F.I.R. that it was Petitioner Nos. 4 and 5 who called Petitioner No.1 with instructions to issue threat of divorce to the Respondent No.1-Complainant cannot be said to be justified for want of any material evidence to that effect. The allegations against Petitioner Nos.4 and 5 are general and too vague in nature.

7. In this background, having regard to the law laid down by the Apex Court in the matter of *Kahkashan Kausar Vs. State of Bihar* reported in *2022 SCC OnLine SC 162*, the registration of offence and satisfaction of necessary ingredients for the offences punishable under Sections 323, 498-A, 504, 506 read with 34 cannot be inferred.

8. As such, the F.I.R. being Crime No. 335 of 2021, dated 14th August 2021 registered with Kagal Police Station, Kolhapur, for the offences punishable under Sections 323, 498-A, 504, 506 read with 34 is to the extent of Petitioner No.4 and Petitioner No.5 is

hereby quashed and set aside.

9. Petition is disposed of in the above terms. Liberty to Petitioner Nos.1 to 3 to apply for discharge once charge-sheet is filed. Prayer for disposal be considered without being influence by disposal of this Petition.

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[RAJESH S. PATIL, J.]

[NITIN W. SAMBRE, J.]