

Digitally
signed by
DINESH
SADANAND
SHERLA
Date:
2023.12.21
18:56:20
+0500

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
APPLICATION NO. 165 OF 2022**

- | | | |
|----|--------------------------|----------------|
| 1. | Sunil J. Tikekar | |
| 2. | Sou. Supria S. Tikekar | |
| 3. | Sou. Vishakha R Ramdasi | ...Applicants |
| | Versus | |
| 1. | The State of Maharashtra | |
| 3. | Sou. Mansi V. Tikekar | ...Respondents |

Mr. Priyal Sarda for the Applicant.
Ms S. S. Kushik, APP for the Respondent/State.
Mr. Bhagwati Karnik for the Respondent No.2.

**CORAM : NITIN W. SAMBRE &
N. R. BORKAR, JJ.
DATE : 19 OCTOBER, 2023.**

PC:-

1. The present application under Section 482 of Code of Criminal Procedure, 1973 is filed to quash the First Information Report No.563 of 2021 dated 31 December 2021 registered at Chaturshringi Police Station, Pune for the offences punishable under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.

2. The aforesaid crime came to be registered at the instance of respondent No.2/complainant. The applicants are father-in-law, mother-in-law and married sister-in-law of respondent No.2 respectively.

3. The marriage of respondent No.2 was solemnized with the son of applicant Nos.1 and 2 on 19 August 2017. It was their

second marriage. According to respondent No.2, she was subjected to cruelty.

4. We have heard the learned counsel for the applicants, learned counsel for respondent No.2 and learned APP for respondent/State.

5. The learned counsel for the applicants submits that respondent No.2 has made *omnibus* allegations against the applicants, which even if accepted in their entirety, would not constitute offence under Section 498-A of IPC. Relying upon the decision of the Apex Court in ***Kahkashan Kausar alias Sonam and ors. vs. State of Bihar and ors.***¹, it is submitted that the applicants cannot be prosecuted on the basis of such *omnibus* allegations.

6. On the other hand, learned counsel for respondent No.2 submitted that there is *prima facie* material to indicate that the applicants had subjected respondent No.2 to cruelty. It is therefore, submitted that FIR may not be quashed.

7. We have perused FIR. The allegations of cruelty are essentially against the husband of respondent No.2. The allegations against the applicants are that they did not intervene in the matrimonial dispute between respondent No.2 and her husband. Admittedly, the respondent No.2 and her husband were staying at Pune whereas the applicant Nos.1 and 2 were staying at Rasayani, Taluka -Khalapur, Dist. Raigad.

¹ (2022) 6 SCC 599

There are no allegations of any unlawful demand. The allegations against the applicants are general in nature. The allegations even if accepted in their entirety would not constitute cruelty within the meaning of Section 498-A of the IPC.

8. In *Kahkashan Kausar (supra)* as well as in ***Abhishek Vs. State of Madhya Pradesh***², the Hon'ble Supreme Court referred to previous decisions wherein concern was expressed over the misuse of Section 498A of IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analyzing the long term ramifications of a trial on the complainant as well as the accused. The Apex Court cautioned that false implication by way of general *omnibus* allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law and has warned the Courts from proceedings against the relatives and in-laws of the husband when no *prima facie* case is made out against them. The Apex Court also emphasized that a criminal trial leading to an eventual acquittal also inflicts severe scars upon the accused and such an exercise must therefore be discouraged.

9. Considering the facts and circumstances of the case, in our view, it is a fit case to exercise the powers under Section 482 of the Code of Criminal Procedure to quash the FIR *qua the* applicants. Hence, the following order is passed.

2 2023 Livelaw SC 731

ORDER

A] The Application is allowed.

B] The C.R. No. 563 of 2021 dated 31 December 2021 registered at Chaturshringi Police Station, Pune for the offences punishable under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code is quashed *qua* the applicants.

C] Mr. Sarda, learned counsel for the applicants, on instructions, submits that the arrears of maintenance payable to the children who are in the custody of respondent No.2 shall be cleared within a period of three months from today. The statement is accepted.

D] The Application is disposed of in the aforesaid terms.

(N.R. BORKAR, J.)

(NITIN W. SAMBRE, J.)