

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

CRIMINAL WRIT PETITION NO. 2010 OF 2023

Chander Sekhar

...Petitioner

Versus

State of Maharashtra & Another

...Respondents

....

Mr. Aneesh R. Deshpande, Advocate for the Petitioner.

Mr. Avinash S. Ovhal, for Respondent No.2.

Mrs. M.M.Deshmukh, Addl. P.P. for the Respondent No.1 – State.

Ms. M.R. Bagul (W.H.C.) Manpada Police Station, present.

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**CORAM : PRAKASH D. NAIK, &
N. R. BORKAR, JJ.**

DATE : 13th DECEMBER, 2023.

P.C.:

1. Leave granted to amend the prayer clause.
Amendment may be carried out forthwith.

2. The Petitioner challenges the First Information Report (for short 'FIR') dated 03.12.2022 registered with Manpada Police Station, Dist. Thane vide C.R. No. I-929 of 2020 for offence punishable under Sections 498-A, 323, 504 r/w Section 34 of Indian Penal Code (for short "IPC").

3. The FIR has been registered at the instance of Respondent No.2. It is alleged that the marriage of Respondent No.2 was performed on 24th May 2010 with Accused No.1 Vivek Kumar Sahu. There was ill treatment at the hands of Accused No.1. The Accused No.2 (applicant) is the friend of Accused No.1. The Accused No.2 (applicant) was instigating the co-accused that he has used certain words which would constitute the offence under Section 504 of IPC.

4. Learned Advocate for the Petitioner submitted that the Petitioner is resident of Bangalore. He is the friend of Accused No.1. He cannot be prosecuted for an offence under Section 498-A of IPC. He is not the relative of the husband of the complainant. The FIR and the material on record also does not satisfy the requirement for offence under Section 504 of IPC. It is an abuse of process of law to prosecute the Petitioner for the said offence.

5. Learned A.P.P submitted that the investigation qua the applicant is in progress. Charge-sheet has been filed against the Accused No.1. Assuming that Section 498-A is not attracted against the applicant, the material on record is sufficient to invoke Section 504 of IPC against the Petitioner.

6. Learned Advocate for Respondent No.2 submitted that the applicant was involved in causing harassment to the complainant. He is close friend of Accused No.1. The conversation ensued between the Petitioner and Complainant depicts that the applicant was abusive against the complainant. He relied upon text of conversation. There is sufficient material on record to proceed against the Petitioner.

7. We have perused the FIR and the documents which are brought on record by the complainant by filing an Additional Affidavit. Undisputedly, the applicant is not the blood relation of the husband of the complainant. The applicant cannot be prosecuted for offence under Section 498-A of IPC. There is no evidence against the applicant to satisfy the requirement of Section 323 of IPC. The FIR is also registered under Section 504 of IPC. Section 504 of IPC relates to the offence of intentional insult with intent to provoke breach of peace. The material on record produced by the prosecution does not satisfy requisite ingredients to constitute the said offence. No case is made out against the Petitioner. The Petitioner cannot be charged with any offence and the case is made out to set aside the FIR against Petitioner.

8. Hence, we pass the following order:

ORDER

- i. Criminal Writ Petition No.2010 of 2023 is allowed and disposed of;
- ii. F.I.R. No 929 of 2022 Dated 03.12.2022 registered with Manpada Police Station, Dist. Thane is quashed qua the Petitioner.

(N. R. BORKAR, J.)

(PRAKASH D. NAIK, J.)