

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.4947 of 2022**

1. Almas Begum Imtiyaz Ahmed,
Wife of Imtiyaz Ahmed,
Age 41 years, Occupation : Doctor,
R/at: A-302, Building No.13/14, Asmita
Daffodils-CHS, Asmita Enclave, Naya Nagar
Near NH High School, Mira Road,
Thane 401 107

...Petitioner
(Orig.Accused No.1)

2. Aasim Mubin Shaikh,
Age 36 years, Occupation : Service,
R/at : B-602, Adnan Mahal Building,
Besides "K" Villa Hall, 1st Rabodi,
Thane (West) 400 601.

.. Petitioners
(Orig.Accused No.3)

Versus

(1) Ahtesham Abdul Bari,
Age 45 years, Occupation: Business,
R/at: 17, YMCA Road, 1/50, Al-Haq
Building, Room No.19, Mumbai 400 008...Respondent No.1
(Orig.Complainant)

(2) State of Maharashtra,
Through Public Prosecutor,
High Court Bombay

...Respondents.

Mr SA Shaikh i/b Khaja Hasanuddin, Advocate for the
Petitioner.

Mr MA Khan a/w Aafreen S. Shaikh, for Respondent No.1.

Mr SR Agarkar APP for State.

Coram : R. N. Laddha, J.

Date : 4 November 2023.

P.C. :

Heard learned Counsel for the parties.

2. The petitioners have approached this Court under Section 482 CrPC for quashing and setting aside the order dated 11.03.2020 of the Additional Sessions Judge, Thane in Criminal Revision No.279 of 2019, as also, for quashing order of issuance of process against them for the offence punishable under Sections 323 and 504 read with 34 of the Indian Penal Code by the Chief Judicial Magistrate, Thane, in SCC No.05 of 2018.

3. After examining both the complaint and verification statement, it appears that accused No.1 is alleged to have assaulted the complainant while accused No.3 is alleged to have abused and pushed her. According to Asmita Ganesh Mane's statement, a police constable who testified before learned Magistrate, accused No.1 slapped the complainant in her presence, causing a bleeding injury below her right eyebrow. The averments in both, the complaint and verification statement make out a *prima facie* case for issuing process against the petitioners, and the Magistrate's order

reflects careful consideration of these allegations. Although there are claims of a matrimonial dispute between parties and contradictions in witness statements, this Court cannot consider the petitioner's/accused's defence by conducting a mini trial at this stage.

4. The scope of a writ petition challenging the issuance of process is limited to consider the allegations in the complaint. By catena of judicial pronouncements, the legal position to the effect is clear that the merits of the defence should not be considered at the stage of cognizance.

5. In view of this, there is no merit in this writ petition. Accordingly, the writ petition stands dismissed.

[R. N. Laddha, J.]