

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 3986 OF 2021**

Yogeshwar Rajaram Gurgude And Ors.

... Petitioner

V/s.

The State Of Maharashtra And Ors.

... Respondent

Mr. Hafeezur Rehman for Petitioners.

Mrs. G. P. Mulekar, APP for Respondent No.1-State.

Mr. Sanjay Shinde a/w Ms. Anjali Binjola for Respondent No.2.

**CORAM : A.S. GADKARI AND
PRAKASH D. NAIK, JJ.**

DATE : 30th MARCH, 2023.

PC. :

1. Petitioners i.e. husband, father-in-law, mother-in-law and sisters-in-law of Respondent No.2 have filed present Petition for quashing of R.C.C. No. 343 of 2021 pending on the file of learned Judicial Magistrate First Class, Court No.2, Malegaon, arising out of C.R. No. 324 of 2021 dated 7th April, 2021, registered with Malegaon Camp Police Station, Malegaon, District Nashik under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal code.

2. Heard Mr. Rehman, learned Advocate for Petitioners, Mrs. Mulekar, learned APP for Respondent No.1-State and Mr. Shinde, learned Advocate for Respondent No.2. Perused charge-sheet.

3. Respondent No.2 has set criminal law into motion by lodging the C.R. No. 324 of 2021 registered with Malegaon Camp Police Station, Malegaon, District Nashik.

It is stated in the FIR that, the Respondent No.2 got married with Petitioner No.1 in the month of March 2006. That, she gave birth to a son in the month of March 2007. Thereafter, the Petitioner No.1 started taking doubt on her fidelity and used to assault and abuse her in filthy language. Petitioner Nos.2 and 3 who are father-in-law and mother-in-law of Respondent No.2 used to abuse her in filthy language. Petitioner Nos. 4 and 5 who are the sisters-in-laws of Respondent No.2, though were residing separately at their respective matrimonial homes, whenever used to come at their parental home, also used to abuse Respondent No.2 in filthy language by taking side of Petitioner No.1. That, Petitioner No.1 subsequently started demanding Rs.5,00,000/- from the Respondent No.2 to be brought from her parents for getting a permanent job with Nashik Municipal Corporation. Respondent No.2 expressed her inability to comply with the said demand, as her father was not having those funds. It is specifically alleged in the FIR that, all the Petitioners used to harass and cause cruelty to the Respondent No.2. During the course of investigation, police have recorded statements of five witnesses and after completion of investigation submitted charge-sheet in the Court of competent jurisdiction.

4. Mr.Rehman, learned Advocate for Petitioners submitted that, statements of witnesses are stereotype. The witnesses are relatives of

Respondent No.2 and statement of any independent witness has not been recorded by the investigating agency. He submitted that, the Petitioner No.1 had issued a notice through his Advocate on 28th September, 2020 to the Respondent No.2 and after receipt of the said notice, present crime has been belatedly lodged by her as an afterthought. He submitted that, Petitioner Nos.4 and 5 are married sisters of Petitioner No.1 and were residing separately. That, they have been unnecessarily and/or falsely implicated in the present crime out of grudge. He therefore prayed that, said case/charge-sheet may be quashed.

5. Per contra, Mr. Shinde, learned Advocate for Respondent No.2 vehemently opposed the Petition and submitted that, perusal of FIR and statements of witnesses would clearly make out a strong prima-facie case even for framing of charge and to proceed further in the trial. He therefore prayed that, present Petition may be summarily dismissed.

Learned APP supported the arguments of learned Advocate for Respondent No.2 and prayed for dismissal of present Petition.

6. The facts mentioned in para No.3 above are deduced from the FIR of Respondent No.2. The witnesses duly support and corroborate version of Respondent No.2. We are unable to accept the contention of learned Advocate for Petitioners that, there has to be an independent witness to substantiate allegations of Respondent No.2. The present crime arises out of a matrimonial dispute and cruelty caused to Respondent No.2 by Petitioners. In such an eventuality there can hardly be any independent

person who witnesses either torture or assault to Respondent No.2, which occurred within the four walls of her matrimonial house.

7. Perusal of FIR and other statements of witnesses clearly indicate that, a strong prima-facie case is made out by the prosecution against Petitioners.

8. In view thereof, we are not inclined to quash the said R.C.C. No. 343 of 2021 pending on the file of learned Judicial Magistrate First Class, Court No.2, Malegaon, arising out of C.R. No. 324 of 2021 registered with Malegaon Camp Police Station, Malegaon, District Nashik

Petition is accordingly dismissed.

(PRAKASH D. NAIK, J.)

(A.S. GADKARI, J.)