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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2904 OF 2023

Neelam Lalchand Jethwani and another ... Petitioners

Versus

The State of Maharashtra and another ... Respondents

.....

Mr. Shashikant Chaudhari instructed by Maharashtra Law Associates for the Petitioners.

Ms. M.M. Deshmukh, Addl.PP for the State.

Ms. Gauri Velankar for Respondent No.3.

PSI N.T. More, Borivali Police Station, Mumbai, present.

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

DATED : 19th DECEMBER 2023

P.C. :-

. The Petitioners have challenged the proceedings in C.C. No.7640/PW/2023 arising out of First Information Report dated 8th July 2023 (FIR) registered with Borivali Police Station, Mumbai vide C.R. No.409 of 2023 for offences under Sections 509, 323, 506 r/w. 34 of Indian Penal Code (IPC).

2. The case of prosecution is as under :

(i) The FIR is lodged by Respondent No.3 on 8th July 2023.

(ii) The accused are residing in society where the complainant resides with her family. They are quarreling with other persons residing in society.

(iii) There are two pipeline connections in society. One of them is near gate in permanent condition and water being regularly used. The second pipeline is for water used for drinking purpose. The pipe is passed through every room for providing water.

(iv) On 8th July 2023 at about 12 noon while water was being filled up, Petitioner No.1 came there and started walking on water pipe. This had created hurdle in flow of water. She was told not to stand on water pipe. She raised her voice and started quarreling with complainant. The Petitioner No.1 abused her in filthy language. She used obscene words against her. Petitioner No.2 came to the spot and attempted to assault her with badminton racket and abused complainant in objectionable language. At that time, complainant's neighbour Darshana Shelekar came to her rescue. Petitioners abused and assaulted her.

3. Learned Advocate for the Petitioners submits that the FIR is false. The Petitioners are falsely implicated in this case. FIR has been registered out of vendetta. The Petitioner No.1 has lodged the FIR against complainant and several other persons on the same day vide C.R. No.410 of 2023 with same Police Station for offences under Sections 509, 323, 506 r/w. 34 of IPC. The Petitioners have nothing to do with alleged FIR. FIR is counterblast to complaint of Petitioners., The complainant is at loggerhead with Petitioners. Several complaints are filed by Petitioners against opponents in the past.

4. Learned APP submitted that perusal of the FIR clearly spells out the offences registered against the Petitioners. There is sufficient evidence against the Petitioners to invoke the offences under Sections 509, 323, 506 of IPC. Charge-sheet has been filed. The grounds urged by the Petitioners cannot be appreciated at this stage.

5. Learned Counsel for the Respondent No.3 submitted that the FIR clearly makes out offences. Investigation is completed and charge-sheet is filed. The FIR lodged by the Petitioners against the Respondent No.3 was registered on the same day. Several complaints were filed by Petitioners including an offence under Section 376 of IPC.

6. We have perused the FIR. Investigation is completed and charge-sheet is filed. From the tenor of the FIR, it is apparent that prima facie the offences are made out. The grounds urged by the Petitioners cannot be appreciated at this stage. The impugned FIR was registered vide C.R. No.409 of 2023. The Petitioner No.1 lodged FIR vide C.R. No.410 of 2023 for similar offences against Respondent No.3, witness Darshana Shelekar and several other persons. About 15 persons were impleaded as accused. The Petitioners have contended that Petitioners have lodged several complaints with same Police Station. They have provided list of 17 FIR's registered at their instance. For some of the cases, summary report is filed. The Petitioners have also provided list of cases registered against them at same Police Station by opponents which included five cases including C.R.No.409 of 2023. Charge-sheet contains statements of witnesses which cannot be discarded at this stage. No case is made out to exercise powers under Article 226 of the Constitution of India or Section 482 of Cr.P.C. to quash the FIR.

ORDER

Writ Petition is dismissed and disposed off.

(N.R. BORKAR, J.)

(PRAKASH D. NAIK, J.)