

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 3155 OF 2023**

Ameya Anil Bothara ... Petitioner
Versus
1. The State of Maharashtra
2. XYZ ... Respondents

**WITH
WRIT PETITION NO. 3156 OF 2023**

1. Anil Hemraj Bothara
2. Padmaja Anil Bothara
3. Priyal Anil Bothara ... Petitioners
Versus
1. The State of Maharashtra
2. XYZ ... Respondents

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Mr. Pradeep Thorat a/w Mrunal Surana i/b Vaibhav Kulkarni for the
Petitioner in both Petitions.

Mr. S. V. Gavand, APP for the State.

Mr. Priyal Sarda for Respondent No. 2 in both Petitions.

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**CORAM : NITIN W. SAMBRE &
N.R. BORKAR, JJ.**

DATED : 7 NOVEMBER 2023

P.C. :-

IN WRIT PETITION NO. 3155 OF 2023 :

1. As this Court is not inclined to grant relief, the petition is not
pressed and dismissed accordingly.

IN WRIT PETITION NO. 3156 OF 2023 :

2. We have heard Mr. Thorat, learned counsel appearing for the petitioners.

3. The petitioner Nos. 1 and 2 are father-in-law and mother-in-law respectively, whereas petitioner No. 3 is unmarried sister-in-law of respondent No. 2.

4. The marriage of respondent No. 2 was performed on 6 February 2017 with the son of petitioner Nos. 1 and 2. She parted company on 28 July 2019 and on 7 December 2019 proceedings under the Prevention of Domestic Violence Act was initiated.

5. The complaint came to be lodged by the respondent No. 2 on 20 April 2023, alleging cruelty, sexual offence, criminal intimidation, assault, etc.

6. As a sequel of above, offence being Crime No. 408 of 2023 for the offence punishable under Sections 498-A, 377, 323, 504, 506 r/w 34 of the Indian Penal Code came to be registered at Kondhawa Police Station.

7. The submissions are, not only the complaint is at belated stage but also same does not contain specific allegations against the petitioners. So as to substantiate the contention Counsel for the Petitioners would invite our attention to the contents in the FIR.

8. Mr. Sarda, appearing for respondent No. 2/complainant would urge that the satisfaction of the ingredients of the offence alleged can be inferred by reading of the contents in the FIR as a whole. According to him, within four years of the marriage the matrimonial discord was noticed because of ill-treatment and that being so the petition is liable to be dismissed.

9. We have considered the submissions.

10. Though the FIR contains allegations against the petitioners, same are non-specific, vague and general in nature.

11. The respondent No.2 has parted company with the petitioners in July 2019 and has initiated DV Act proceedings thereafter.

12. The FIR came to lodged on 20 April 2023 alleging the offence of ill-treatment against the petitioners.

13. In view of the law laid down by the Apex Court in the matter *Kahkashan Kausar alias Sonam and Others Vs. State of Bihar and Others* reported in *2022 6 SCC 599*, the blood relations of the husband cannot be impleaded in the criminal offence based on the vague, general and non specific allegations. The Apex Court in the matter of Kahkashan Kausar (cited supra) in paragraphs 15, 16 and 17 had an occasion to deal with similar issue like the one which is sought to be canvassed before us. The observations in the said paragraphs read thus :-

“15. In Geeta Mehrotra Vs. State of U.P. reported in (2012)10 SCC 741, it was observed:-

“21. It would be relevant at this stage to take note of an apt observation of this Court recorded in the matter of G.V. Rao vs. L.H.V. Prasad reported in (2000) 3 SCC 693 wherein also in a matrimonial dispute, this Court had held that the High Court should have quashed the complaint arising out of a matrimonial dispute wherein all family members had been roped into the matrimonial litigation which was quashed and set aside. Their Lordships observed therein with which we entirely agree that:

‘12.....there has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony, main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in heinous crimes in which elders of the family are also involved with the result that those who could have

counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate the disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their “young” days in chasing their cases in different courts.” The view taken by the judges in this matter was that the courts would not encourage such disputes.”

16. Recently, in *K. Subba Rao v. The State of Telangana* reported in (2018) 14 SC 452, it was also observed that:-

“6....The Courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out.”

17. The above-mentioned decisions clearly demonstrate that this court has at numerous instances expressed concern over the misuse of section 498A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments 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. Therefore, this court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.”

14. Apart from above the facts remain that the allegations against the petitioners are of utterances of ill-treating, offending words, etc. No specific instances with details are narrated so as to attract offence as has been alleged. That being so in our opinion the present petition deserves to be allowed. As such, the Petition stands allowed in terms of prayer clause (a).

(N.R. BORKAR, J.)

(NITIN W. SAMBRE, J.)