

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

CRIMINAL WRIT PETITION NO. 6370 OF 2021

1. Mahesh Jagdish Prajapat,
Age : 27 years, Occu: Service
2. Komal Jagdish Prajapat,
Age : 29 years, Occu : Household
3. Tina Pankaj Prajapat,
Age : 25 years, Occu : Household
4. Jagdish Jawanram Prajapat,
Age : 55 years, Occu : Business
5. Santosh Jagdish Prajapat,
Age : 50 years, Occu : Household,
All residing at 50, Surya Colony,
Naya Gaon, Pali, Rajasthan ...Petitioners

Versus

1. The State of Maharashtra,
Through Senior Inspector,
Chandan Nagar Police Station,
District – Pune
2. Meena Mahesh Prajapat
Age : 24 years, Occu : Household,
Presently residing Survey No.42/1,
Pancharatna Medik, Ganesh Nagar,
Vadagaon Shere, Pune - 14 ...Respondents

Mr. Vivek M. Punjabi, Advocate for Petitioner.

Mr. Ajit S. Hodage, Advocate for Respondent No.2.

Mrs. Geeta P. Mulekar, APP for Respondent – State.

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

DATE : 21st APRIL, 2023.

P.C. :-

1. Petitioners has invoked Article 226 of Constitution of India and inherent powers under Section 482 of Code of Criminal Procedure challenging the proceedings in R.C.C. No. 1522 of 2022 pending before the Court of 6th Joint Civil Judge Senior Division and J.M.F.C. Pune.

2. Petitioner No.1 is the husband, Petitioner Nos. 2 and 3 are sister-in-law, Petitioner No.4 is father-in-law and Petitioner No.5 is mother-in-law of Respondent No.2.

3. Since the Court had expressed disinclination to grant relief sought in this Petition qua Petitioner Nos. 1, 4 and 5, learned Advocate for Petitioners on instructions submitted that, he may be allowed to withdraw the Petition on behalf of Petitioner Nos. 1, 4 and 5 with liberty to prefer an application for discharge before the trial Court. The submission is accepted. Petitioner Nos. 1, 4 and 5 are allowed to withdraw this Petition with liberty to prefer an application for discharge before appropriate Court. In the event such application is preferred by them, the trial Court shall decide the same on merits and in accordance with law, without being influenced by withdrawal of this Petition.

4. Learned Advocate for Petitioners submitted that, the charge-sheet does not make out any offence against Petitioner Nos. 2 and 3. They are falsely implicated in this case. No overt act is attributed to them. They have been unnecessarily dragged in criminal proceedings.

5. Learned APP submitted that, specific role has been attributed to the Petitioner Nos.2 and 3. They are named in the FIR. They had acted in furtherance of common intention with the other accused.

6. Learned Advocate for Respondent No.2 submitted that, there is sufficient evidence against Petitioner Nos. 2 and 3. Overt act has been attributed to them in FIR. The allegations in the FIR shows that, the Petitioner Nos. 2 and 3 were also instrumental causing physical and mental cruelty to Respondent No.2. The grounds urged by the said Petitioners cannot be accepted at this stage.

7. The marriage between the Petitioner No.1 and Respondent No.2 was solemnized on 16th November, 2016. Petitioner No.2 is the sister of Petitioner No.1. She is married to cousin of Respondent No.2 on 19th April, 2018. Petitioner No.2 had lodged

the complaint against her husband Rakesh Prajapat and his family members for demand of dowry and torture caused by them. FIR was registered vide C.R. No.35 of 2020 on 6th August, 2020 under Sections 498-A, 406 and 323 of IPC. We have perused the FIR and statements of witnesses which forms part of charge-sheet. The allegations against Petitioner Nos. 2 and 3 are vague. Apparently, they have been implicated in the FIR with *mala fide* intentions and out of vengeance. The allegations against them are vague and general in nature. Even the vague allegations attributed by complainant to Petitioner Nos. 2 and 3 are not corroborated by the other witnesses who are relatives of Respondent No.2 We have perused the statement of Zhumberlal Kumbhar (Father of complainant), Smt. Geeta Zhumberlal Kumbhar (Mother of complainant), Shri. Mukesh Zhumberlal Kumbhar (Brother of complainant) and Mithulal Kumbhar (uncle of complainant). These witnesses refer to the grievances of complainant. However, no role is attributed to Petitioner Nos. 2 and 3.

8. It is apparent that, the FIR against Petitioner Nos. 2 and is attended with *mala fides*. There is no material to substantiate the charges under Sections 498-A, 323 and 504 of IPC against Petitioner Nos. 2 and 3 and proceedings against them are required

to quashed and set aside.

ORDER

- i. Criminal Writ Petition No.6370 of 2021 qua Petitioner Nos. 2 and 3 is allowed.
- ii. Proceedings in R.C.C. No. 1522 of 2022 pending before the Court of 6th Joint Civil Judge Senior Division and J.M.F.C. Pune are quashed and set aside qua Petitioner Nos. 2 and 3.

[PRAKASH D. NAIK, J.]

[A.S. GADKARI, J.]