

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 5198 OF 2019

Purshottam Dattatray Warale
and Ors.

...Petitioners

Versus

State of Maharashtra and Anr.

...Respondents

Mr. Ganesh Bhujbal a/w Suhas Inamdar for the Petitioners.

Ms. M.H. Mhatre, APP for the Respondent/State.

Ms. Gauri Shah for Respondent No.2.

CORAM : SUNIL B. SHUKRE, AND
M.M.SATHAYE, JJ.

DATE : 11th APRIL 2023

:ORAL JUDGMENT:

1. Rule. Rule is made returnable forthwith. Learned APP waives service for Respondent No.1 and learned counsel waives service for Respondent No.2. Heard finally by consent of parties.

2. On the basis of the complaint filed by Respondent No.2, offences punishable under Sections 498-A, 323, 504 and 506 were registered on 23.01.2019 at Vishrambaug Police Station, Sangli. According to the Petitioners, the allegations made against them are vague and do not constitute any offence as alleged against them.

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3. The learned Counsel for the Petitioners submits that allegations are not only vague in nature, but also do not appear to be probable because of the fact that neither of the Petitioners at any point of time resided together with the complainant and her husband and that there was no occasion for them to visit the house of the complainant and subject her to the alleged cruelty and harassment. He relies upon the cases of **Ram Saran Varshney and Ors. v/s. State of Uttar Pradesh and Anr.**¹ and **Shakuntala Narsing Patil and Ors. v/s. State of Maharashtra and Anr.**²

4. According to the learned Counsel for the Respondent No.2 for some point of time, the Petitioner Nos. 1 and 2 had resided together with the complainant and her husband and the cruelty at the hands of these Petitioners had started from that point of time and it continued even later on. She submits that there are specific allegations made against all the Petitioners and therefore, this is not a fit case for quashing of the FIR. She submits that matter must go for trial.

5. Learned APP submits that any appropriate order may be passed in this case.

6. We have carefully considered the complaint lodged by the Respondent No.2 in the light of arguments made on behalf of the

1 (2016) 3 SCC 724

2 2019(4) Bom.C.R. (Cri.) 197

Petitioners and Respondent No.2. We find that it would be incorrect to say that the allegations made in the FIR are vague and general in nature. The Investigating Officer has recorded the statements of witnesses and these statements disclose that there are specific allegations made against each of the Petitioners. It is the case of the complainant that some time after the marriage, she with her husband started cohabiting in a different house, which was separate from the house of parents of her husband. But, she states, that too in a specific manner that even though her father-in-law and mother-in-law were residing in a separate house, they used to pay visits to her house and during those visits they used to abuse her and also subject her to various acts of cruelty. Those acts of cruelty have been particularly stated by the complainant in the FIR. They also appear to be prima facie consistent in nature. As regards, Petitioner Nos. 3 and 4 also, the complainant alleges that these Petitioners being her sisters-in-law residing separately used to frequently visit her house and also used to subject her to various acts of harassment and cruelty during those visits just as her father-in-law and mother-in-law used to do. The allegations made against the Petitioner Nos. 3 and 4 are also specific in nature and appear to be prima facie pointing out cruelty as contemplated under Section 498-A of IPC. Such being the nature of the allegations, we do not think that any case is made out by the Petitioners for interfering in the matter and quashing of the FIR.

7. It is well accepted principle of law that whenever extraordinary jurisdiction of this Court under Article 226 of the Constitution of India read with Section 482 of the Cr.P.C. is to be exercised for the purpose of quashing of the FIR, this Court is required to examine as to whether or not, the allegations made in the FIR, taken at face value disclose commission of any cognizable offence and this Court cannot exercise its jurisdiction in favour of the Petitioners invoking it, if they do prima facie disclose the offence. A useful reference in this regard may be to the principle of law laid down in the case of **State of Haryana and Ors. v/s. Bhajanlal and Ors.**³

8. The learned Counsel for the Petitioners, relying upon the cases of Ram Saran (supra) and Shakuntala (supra) would argue that this is a fit case for quashing of the FIR as allegations are vague in nature and the Petitioners are admittedly residing separately. However, upon carefully consideration of the facts of Ram Saran (supra) and Shakuntala (supra) and the observations made therein by the Apex Court and co-ordinate Bench of this Court respectively, we would beg to differ with the learned Counsel for the Petitioners.

9. In Ram Saran (supra), the Appellant Nos. 4, 5 and 6 who were the sisters-in-law of the complainant were not residing with the complainant and it was observed that since they were married

3 1992 SCC (Cri) 426

and living independently at different places, they had no concern with the relationship of the complainant with her other in laws. It was also found by the Apex Court that there were no clear allegations leveled by the complainant against her sisters-in-law. In these facts and circumstances of the case, the Apex Court quashed the proceedings against the sisters-in-law of the complainant.

10. The facts of the instant case discussed in the earlier paragraph would show that there are specific allegations made against each of the Petitioners and that it has also been alleged that even though they were residing separately, they used to visit house of the complainant and during those visits, they used to harass her and subject her to cruelty. These facts of the present case being different from the facts of Ram Saran (supra), in our respectful submission, the case of Ram Saran (supra) would not assist the Petitioners at least at this stage. Same is true about the facts of the Shakuntala (supra), where in paragraph 8 of the Judgment, the co-ordinate Bench of this Court found that Applicant Nos. 3 to 6 therein were distant relatives of the complainant and the allegations made against them were vague and general in nature and that there were no specific allegations in regard to overt act relating maltreatment and harassment alleged by the complainant against those Applicants. Such is not the case here. In the FIR, the complainant has attributed overt

acts of cruelty to each of the Petitioners. Therefore, even this case could have no application to the facts of the present case.

12. Thus, we find that there is no merit in the petition. Petition stands dismissed. Rule is discharged. No order as to costs.

13. The learned Counsel for the Petitioners makes a prayer for extension of interim relief granted by this Court on 15.02.2021 atleast for next two weeks, which prayer is opposed by the learned Counsel for Respondent No.2.

14. The interim relief has been granted by this Court on 15.02.2021 and it is in the nature of stay to the further proceedings in RCC No. 266/2019 pending before the Court of Judicial Magistrate First Class, Sangli, arising out of Crime No. 29 of 2019 registered with Vishrambaug Police Station, Sangli. Considering the fact that the criminal case is now 4 years old, it may not be in the interest of justice that interim relief granted by this Court on 15.02.2021 is extended any further. Even otherwise, the Petitioners would be getting sufficient time to challenge this order before the Supreme Court, if they wish to do so as the Trial Court would require some time for actual commencement of trial. Hence, prayer is rejected.

(M.M.SATHAYE, J.)

(SUNIL B. SHUKRE, J.)