

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

CRIMINAL APPLICATION NO. 1332 OF 2022

Rashmi D/o. Shiv Prasad ...Applicant
Versus
The State of Maharashtra and Anr. ...Respondents

**WITH
CRIMINAL APPLICATION NO. 1252 OF 2022**

Hemant Kumar S/o. Shiv Prasad ...Applicant
Versus
The State of Maharashtra And Anr. ...Respondents

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Mr. Ganesh K. Gole a/w Mr. Aasif ali M. Ali for the Applicant.
Mr. Vinduprakash S. Pandey for Legal Edge LLP a/w Mr. Shivlaxmi
Sharma for Respondent No.2.
Mrs. M. M. Deshmukh, APP for Respondent – State.
Mr. Dilip Sawant, PSI, Bandra Police Station is Present.

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

DATE : 11th DECEMBER, 2023.

P.C.

1. Learned Advocate for the Applicant on instructions seeks permission to withdraw Criminal Application No.1252 of 2022 with liberty to prefer an application for discharge before the Trial Court. In view of submission, the application is allowed to be withdrawn with liberty to prefer an application for discharge.

2. Criminal Application No.1332 of 2022 is preferred by the sister-in-law of Respondent No.2 challenging the proceedings in

Criminal Case No.1805/PW/2022 pending before the Court of learned Metropolitan Magistrate. The said proceedings are arising out of the First Information Report (for short 'FIR') dated 18th July, 2022 registered at the instance of Respondent No.2 for offences under Section 498-A, 323, 504 r/w 34 of Indian Penal Code (for short 'IPC').

3. The Respondent No.2 is the wife of Accused No.1 Hemant Kumar. The complainant has alleged that her marriage was performed with Accused No.1 on 3rd February, 2001. She was illtreated by the Accused. In December-2002, she left to her parental home. The Accused No.1 filed a proceedings for divorce. The marriage was dissolved in 2012. Accused No.1 performed second marriage on 2nd March, 2014. In 2019 the Accused No.1 made a phone call to the complainant and informed her that he has obtained *ex parte* divorce from his second wife. He also convinced the complainant that he would look after her and was suggesting for performing marriage with him. On 14th December, 2019 the Accused No.1 visited complainant's house at Agra. She was requested to perform marriage with him. He executed agreement with the complainant and assured he will look after the children. The complainant performs marriage with Accused No.1 on 25th

December, 2019. However, after the marriage, she was illtreated by Accused No.1. The complainant filed a proceedings under the Domestic Violence Act on 18th May, 2022. The Accused No.1 was instigated by the sister-in-law (Applicant) and on her instigation the Accused No.1 changed the lock of the house. FIR was registered on 18th July, 2022. On completing investigation, charge-sheet was filed.

4. Learned Advocate for the Applicant submitted that the Applicant in Criminal Application No.1332 of 2022 is a sister-in-law of complainant. She is residing separately. She has been falsely implicated in this case. The allegations against her are vague. No offences are made out against her. The proceedings against the said Applicant may be quashed.

5. Learned APP submitted that FIR refers to the role of the Applicant. On completing investigation, charge-sheet is filed.

6. Learned Advocate for Respondent No.2 submitted that there is sufficient evidence to proceed against the Applicant. Role has been ascribed to her in the FIR. Charge-sheet is filed. The Applicant was instrumental in harassing the complainant. The charge-sheet contains material which establishes the charge under Section 498-A, 504 r/w 34 of IPC against the Applicant. The proceedings against the Applicant shall not be quashed.

7. We have perused the FIR and the charge-sheet. The factual matrix indicate that the marriage between the complainant and the Accused No.1 was performed in the year 2001. The marriage was dissolved in 2012. They got remarried again in 2019. The FIR and the statements of witnesses indicate that vague allegations are made against the Applicant. It is apparent that Applicant has been implicated in this proceedings. The omnibus allegations are not sufficient to establish the charges under Section 498-A, 323 and 504 of IPC against the Applicant. In the case of Abhishek V/s. State of Madhya Pradesh in Criminal Appeal No.1456 of 2023 and 1457 of 2015, the Apex Court had quashed the proceedings under Section 498-A of IPC on the ground that allegations are mostly general and omnibus in nature, lacking specific details. In exercise of powers under Section 482 of Code of Criminal Procedure, we are inclined to quash the proceedings against the Applicant Rashmi D/o. Shiv Prasad.

ORDER

- i. The Criminal Application No. 1332 of 2022 is allowed;
- ii. The proceedings in Criminal Case No.1805/PW/2022 pending before the Court of learned Metropolitan Magistrate arising out of the FIR No.1329 of 2022 dated 18th July, 2022 are

quashed against the Applicant Rashmi D/o. Shiv Prasad.

iii. Criminal Application No.1332 of 2022 and Criminal Application No.1252 of 2022 are disposed off.

[N. R. BORKAR, J.]

[PRAKASH D. NAIK, J.]