

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

CRIMINAL WRIT PETITION NO. 5999 OF 2019

Chintan Yogeshbhai Kaloliya And Ors. ...Petitioners

Versus

The State of Maharashtra & Anr. ...Respondents

....

Mr. Rajendra Rathod a/w Mr. Anmir Karodia a/w Mr. Sameer Shaikh,
Advocate for the Petitioners.

Mr. Tariq Khan i/by Mr. Sohail Ahmed, Advocate for Respondent No.2.

Mrs. S.D. Shinde, APP for Respondent-State.

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

DATE : 22nd DECEMBER, 2023

P.C.:

1. The Petitioners are challenging the charge-sheet arising out of First Information Report No.235 of 2018 registered with Bandra Police Station for offences under Sections 498-A, 377, 406, 323, 506(2), 504 of Indian Penal Code (for short 'IPC').

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

3. The first informant has alleged that her marriage was solemnized with Accused No.1 on 11th July, 2016. From September, 2017, she is residing with her parents. The marriage was registered

on 18th April, 2016. The expenses towards marriage were incurred by complainant's father. Gift articles were presented to the relatives of Accused. The complainant then joined the matrimonial home. The husband of the first informant was addicted to liquor. There were quarrels between first informant and her husband. She was assaulted by the husband. The first informant was working as pilot. Sister-in-laws were taunting her. In April 2016 the first informant came to Bandra and started residing with her husband. Her husband had subjected to her unnatural sex. She was required to consult doctor. Accused No.1 was demanding money for day to day expenses. Mother-in-law and sister-in-law were insulting her. Subsequently, the complainant went to Ahmedabad with her husband. In September, 2017, she was assaulted by husband and told to leave matrimonial home. Mother-in-law supported her son. She was told to leave the house. The ornaments brought by her in the marriage were retained by mother-in-law and her husband. Thereafter, the Accused No.1/husband was insisting that she should agree for divorce. The complainant approached the Police and lodged the FIR on 18th April, 2018. Statements of witnesses were recorded. On completing investigation, charge-sheet was filed.

4. The Respondent No.2 has filed affidavit-in-reply opposing

the relief sought by the Petitioners.

5. Learned Advocate for the Petitioners submitted that marriage was performed in 2016. The complainant left matrimonial home in September, 2017. She had cohabited the marriage with the Accused No.1 for a short span of time. The allegations in the FIR are false. Although she left the matrimonial home in September, 2017, the FIR was lodged in April, 2018. The allegations does not constitute cruelty as required under Section 498-A of IPC. The Petitioner Nos. 3 and 4 are sister-in-law of Respondent No.2. They are falsely implicated in this case. No specific role is assigned to the Petitioners.

6. Learned APP and learned Advocate for Respondent No.2 submitted that the FIR clearly spells out the nature of illtreatment meted out to the complainant by the Accused. Statements of witnesses were recorded. Charge-sheet is filed. Medical examination of the complainant was conducted. The ornaments belonging to the complainant were retained by the Accused. There is sufficient evidence against the Accused. Search was conducted. During the course of investigation, ornaments belonging to the complainant could not be recovered. Supplementary statement of the complainant was recorded wherein she has provided the details

of ornaments. Thereafter, another statement of the complainant was recorded on 16th August, 2018 which also narrates the conduct of the Accused. There is sufficient evidence against the Petitioners to prosecute them for the offences.

7. We have perused the FIR and the charge-sheet. We find that there are specific allegations in the FIR and the statements of witnesses against Petitioner Nos. 1 and 2. The Petitioner No.1 is husband and Petitioner No.2 is the mother-in-law of complainant. Petitioner Nos.3 and 4 are sister-in-law. The allegations against them are vague and omnibus. The FIR does not provide the details of their acts amounting to cruelty. Due to lack of evidence against Petitioner Nos.3 and 4, the proceedings against them are required to be quashed. However, the proceedings against Petitioner Nos. 1 and 2 cannot be quashed as *prima facie* there is sufficient material against them.

ORDER

- i. Criminal Writ Petition No. 5999 of 2019 is partly allowed;
- ii. The charge-sheet arising out of FIR No.235 of 2018 registered with Bandra Police Station is quashed as against Petitioner Nos. 3 and 4.

iii. The prayer for quashing charge-sheet qua Petitioner Nos.1 and 2 is rejected.

iv. Petition is disposed off.

(N.R. BORKAR, J.)

(PRAKASH D. NAIK, J.)