



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 3559 OF 2018**

Irshad Ashfaq Khan and another ... Petitioners

Versus

State of Maharashtra and another ... Respondents

WITH

WRIT PETITION NO. 6067 OF 2019

Nagina Kayyum Khan ... Petitioner

Versus

State of Maharashtra and another ... Respondents

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Mr. Laxman Deshmukh for the Petitioners.

Ms. Sharmila Kaushik, APP for the State.

Ms. Devyani Kulkarni, legal aid appointed for Respondent No.2.

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

DATED : 6 OCTOBER 2023

P.C. :-

1. The prayer is for quashing of the FIR in Crime No.105 of 2017 registered on 31 March 2017 for the offence punishable under Sections 304(B), 306, 498(A) r/w. 34 of Indian Penal Code.

2. Complainant – Liyakat, father of the deceased Kulsum alleged in complaint dated 31 March 2017 that after marriage of Kulsum with

Petitioner Nayeem Khan in Writ Petition No.6067 of 2019, she was treated with cruelty for non-fulfilment of demand of dowry. As such, it is claimed that the conduct of the Petitioners has prompted Kulsum to commit suicide resulting into registration of offence and charge-sheeting of the Petitioners.

3. We have heard the learned Counsel for the Petitioners who submits that there are vague and general allegations against the Petitioners. It is further submitted that perusal of FIR does not reflect satisfaction of the ingredients of the offence alleged.

4. Learned APP and Counsel appointed through legal aid would oppose the prayer based on the statements of the witnesses thereby demonstrating that all the Petitioners were joint in mess with the husband of Kulsum i.e. Nayeem Kayyum Khan.

5. We have appreciated the rival claims. There appears to be statement of the witnesses on record which says that the Petitioners were joint in mess with main accused – Nayeem Kayyum Khan. Apart from above, this Court is required to be sensitive with presumption under Sections 113(a) and 113(b) of the Evidence Act. Of course, the presumption under the said Act is rebuttable. However, there appears to

be statement of the neighbours and other witnesses in support of the prosecution case.

6. For the aforesaid reasons, no case is made out for showing indulgence. Apart from above, but for the Petitioners charges are already framed against the co-accused. That being so, both these Petitions which are devoid of merits stand dismissed. Needless to clarify that observations made are prima facie in nature.

(N.R. BORKAR, J.)

(NITIN W. SAMBRE, J.)