

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 6333 OF 2019**

Yogesh Bajirao Rite and Ors.

...Petitioners

Versus

The State of Maharashtra and Anr.

...Respondents

Mr. Avinash B. Patil Advocate for Petitioners.

Mrs. M. M. Deshmukh, APP for Respondent No.1-State.

Mr. Shailesh Kantharia Advocate for Respondent No.2.

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

DATE : 2nd May, 2023.

P.C.:-

1. The Petitioners are challenging the proceedings in C.C. No. 3424/PW/2019 pending before the learned Metropolitan Magistrate 67th Court at Borivali, Mumbai.
2. The Respondent No.2 has lodged First Information Report dated 25th March 2018 with Dahisar Police Station, Mumbai vide C.R. No.00 of 2018 for offences punishable under Sections 498-A, 406, 504 read with 34 of the Indian Penal Code, which was subsequently transferred to Kurar Police Station, Mumbai vide C.R. No.279 of 2018 for offences punishable under Sections 498-A, 406, 504 read with 34 of the Indian Penal Code.
3. Petitioner No.1 is the husband, Petitioner No.2 is mother-in-law and Petitioner No.3 is sister-in-law of Respondent No.2.

4. The case of the prosecution is that, the marriage between Petitioner No.1 and Respondent No.2 was solemnized on 30th May 2015. Father of Respondent No.2 had provided ornaments and other articles to Respondent No.2 during her marriage. After the marriage, the Petitioner No.1 was insisting that, Respondent No.2 should leave her job. She refused to do so. When she told her husband to buy a house in Mumbai, he insisted and told her to bring Rs.20,00,000/- lakhs from her parents. Father of Respondent No.2 expressed his inability to arrange the amount. Respondent No.2 informed about it to her husband. He abused her. Thereafter, the mother-in-law, father-in-law and sister-in-law of Respondent No.2 were asserting that, the Respondent No.2 should bring money for her father for purchasing house if, she want to purchase house in Mumbai. Respondent No.2 was pregnant. The accused were insisting that, she gave birth to male child and in the event, she does not fulfill their dream, she would be divorced by her husband. She gave birth to a girl child. Father of Respondent No.2 informed about it to the accused. The husband and his other relatives did not visit the parental home of Respondent No.2 to see the child. The child was ailing and was required to be kept in Intensive Care Unit. Father of Respondent No.2 went to the matrimonial house of Respondent No.2. He was abused and threatened by the accused. He approached Kurar Police Station and lodged the complaint against Petitioner No.1. It was registered as N.C. complaint under Sections 504 and 506 of IPC. Subsequently, the

husband, mother-in-law and father-in-law visited the parental home of Respondent No.2 to see the child and at that time they demanded money from Respondent No.2 earned by her through salary. After the period of about three months, Respondent No.2 went to her matrimonial home along with child. She states that, for a period of one month, she was made to work. Servant was removed. She was being ill-treated. She was harassed. Accused were repeatedly taunting that, daughter-in-law of other persons has received abundant dowry but father of Respondent No.2 has not provided anything in dowry. She informed about it to her father, who visited her matrimonial home and took her to his house. The accused did not make call to her nor visited her parental home to take her back. Attempt was made for reconciliation and co-habitation. Stridhan and other articles belonging to respondent No.2 were retained by accused. Thereafter, she approached Dahisar Police Station and lodged the F.I.R. On completing investigation, charge-sheet was filed.

5. Learned Advocate for the Petitioner submitted that, FIR is false. It was lodged belatedly. Charge-sheet does not make out offences against the Petitioners. The allegations are vague. Although, submissions made for quashing the proceedings against all the Petitioner, since the Court indicated disinclination to grant relief, learned Advocate for Petitioners submitted that, he would restrict the prayer qua Petitioner Nos.2 and 3 on the ground that there are no allegations against them and no role is

attributed to them. It is submitted that, the allegations are general in nature and hence proceedings may be quashed against Petitioner Nos. 2 and 3.

6. Learned Advocate for Respondent No.2 and learned APP submitted that overt act has been attributed to all the accused. Statement of witnesses supports the prosecution case hence, Petition may be dismissed.

7. We have perused the FIR, statement of mother of Respondent No.2 dated 11th May 2018, statement of father of Respondent No.2 dated 12th May 2018 and the documents on record. Prima facie case is made out against all the accused. At the stage of adjudicating the petition under Article 226 of Constitution of India or an application under Section 482 of Cr.P.C., the Court cannot appreciate the evidence. The contents of FIR and statements of witnesses assigned overtact to the Petitioners. It is evident that all the accused had physically and mentally tortured Respondent No.2. The charge-sheet makes out offences against the Petitioners. At this stage, the Petitioners cannot be exonerated by quashing the proceedings.

ORDER

(i) Writ Petition No.6333 of 2019 is dismissed.

(PRAKASH D. NAIK, J.)

(A. S. GADKARI, J.)