

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

CRIMINAL WRIT PETITION NO. 1425 OF 2023

Mohammad Tarique Aziz And Ors. ...Petitioners
Versus
The State of Maharashtra And Anr. ...Respondents

....

Mr. Hassan Khan a/w Mr. Ashwin Sawlani, Advocate for the Petitioners.
Mr. Vijaykumar Dhakane, Advocate for Respondent No.2.
Mrs. M.M. Deshmukh, Additional PP for Respondent-State.

....

**CORAM : PRAKASH D. NAIK, &
M.M. SATHAYE , JJ.**

DATE : 15th DECEMBER, 2023.

P.C.:

1. The Petitioners have invoked the writ jurisdiction of this Court under Article 226 of Constitution of India and inherent powers under Section 482 of Code of Criminal Procedure to challenge the First Information Report (for short 'FIR') dated 29th September, 2022 registered with Samarth Police Station, Pune City vide C.R. No.171 of 2022 for offences under Section 498-A, 323, 336, 506, 504 r/w 34 of Indian Penal Code (for short 'IPC').

2. The complainant has alleged that her marriage was solemnized with the Petitioner No.1 on 21st August, 2019. It was a

love marriage. Thereafter, the complainant started residing at the matrimonial home alongwith Accused Nos. 1 to 3. In the year 2020 there was Pandemic of COVID-19. The complainant was not allowed to leave the house. The Accused illtreated her. She was abused and harassed and assaulted.

3. Learned Advocate for the Petitioners submitted that the FIR is false. Complainant's version is concocted. There has been delay in lodging the FIR. Several persons are implicated in this case. Most of the Accused are the relatives of the husband of complainant. The complainant was at Akola. The Accused Nos.4 to 9 are residing separately at Ratnagiri. There are documents on record to indicate that they were not present at matrimonial home of the complainant. The Petitioner No.1 is the husband, Petitioner No.2 is the father-in-law, Petitioner No.3 is the mother-in-law, Petitioner No.4 is the sister-in-law of Respondent No.2 and Petitioner No.5 is the husband of Petitioner No.4. The Petitioner No.6 is the brother-in-law of complainant, Petitioner No.7 is the wife of Petitioner No.6, Petitioner No.8 is the aunt of the Petitioner No.1 and Petitioner No.9 is the daughter of Petitioner No.8. It is further submitted that Petitioner Nos.4 and 5 are residing at Ratnagiri. Petitioner Nos.6 and 7 are the residence of Kondwa (Ku.)

Pune. Petitioner Nos.8 and 9 are residing at Nashik. The Petitioner No.5 is employed at Ratnagiri. On the day of alleged incident dated 26th February, 2020, he was at Ratnagiri and on that day he had undergone COVID-19 test at Ratnagiri. Accused are falsely implicated in the crime with *mala fide* intention to cause harassment.

4. Learned APP submitted that there is sufficient evidence against the Petitioners. All of them are involved in causing illtreatment to the complainant. Role has been attributed to all the Petitioners in the FIR.

5. Learned Advocate for Respondent No.2 submits that at the time of the incident of harassment the Accused were present at the matrimonial home of the complainant. In the FIR, the complainant has provided the details of nature of harassment caused to her. All the Petitioners were involved in causing mental trauma to the complainant. The incidents depicted in the FIR supports the offences which are invoked against the Petitioner.

6. We have perused the FIR and the documents annexed to this Petition. The marriage between the Petitioner No.1 and Respondent No.2 was solemnized on 21st August, 2019. The first informant has referred to incident dated 27th March, 2020. The

Petitioner Nos. 4 to 9 are the relatives of the Petitioner No.1. They are residing separately. The Petitioner No.5 is employed at Ratnagiri. The Petitioner No.8 is the aunt of the Petitioner No.1. The Petitioner No.9 is the daughter of Petitioner No.8. She is student. Transfer Certificate of Petitioner No.9 refers to her attendance in the college which indicate that at on the date of alleged incident she was at Nashik. Contents of FIR are vague. We are inclined to quash the FIR against the Petitioner Nos.4 to 9. We find that they have implicated in the FIR on vague and omnibus allegations. However, we find that allegations in the FIR is sufficient to proceed against Petitioner Nos.1 to 3.

ORDER

- i. Criminal Writ Petition No.1425 of 2023 is partly allowed;
- ii. The First Information Report dated 29th September, 2022 registered with Samarth Police Station, Pune City vide C.R. No.171 of 2022 qua Petitioner Nos.4 to 9 is quashed.
- iii. The prayer for quashing the FIR qua Petitioner Nos.1 to 3 stands rejected.
- iv. Petition stands disposed off.

(M.M. SATHAYE, J.)

(PRAKASH D. NAIK, J.)