

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

CRIMINAL WRIT PETITION NO.1528 OF 2023

1. Manju Mehta, Age 55 years,
2. Suresh Chandra Mehta, Age 67 years,
3. Padam Mehta, Age 39 years,
R/o.201, Marudhar Kesri Complex,
Kohan Pura, Jodhpur, Rajasthan-342001.
4. Rashim Mehta, Age 37 years,
R/o.702, Vastulabh Co-op. Hsg.Soc.Ltd;
Rjamata Jijabai Road, Andheri (East),
Mumbai-400093.

Petitioners

versus

1. The State of Maharashtra
2. Priti Rashim Mehta, Age 37 years,
R/o. 702, Vastulabh Co-op. Hsg.Soc.Ltd;
Rjamata Jijabai Road, Andheri (East),
Mumbai-400093 and
C/o.Ramesh B. Jain, 701, Rama Sadan,
332, Nariman Road, Vile Parle (East),
Mumbai-400057.

Respondents

Ms.Ekta Verma i/by Leagas Law Associates for Petitioners.
Mr.Akash Kavade, Advocate for Respondent no.2.
Ms.M.M.Deshmukh, APP, for State.
WPSI Ms.S.M.Mulani, Vile Parle Police Station, present.

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

DATE : 26th April 2023

PC :

1. The Petitioners have invoked Writ jurisdiction of this Court under Article 226 of Constitution of India challenging FIR dated 2nd August 2022 lodged by Respondent no.2 with Vile Parle Police Station for offence under Section 498-A r/w Section 34 of IPC.

2. Petitioner no.1 is the mother in law, Petitioner no.2 is father in

law, Petitioner no.3 is brother in law and Petitioner no.4 is the husband of Respondent no.2. The marriage between Petitioner no.4 and Respondent no.2 was solemnized on 27th November 2010. There are two male issues from the said wedlock aged around 9 years and 6 years who are currently in custody of Respondent no.2.

3. The brief allegations in the FIR are as follows :-

The marriage between Petitioner no.4 and Respondent no.2 was solemnized on 27th November 2010. It was an arranged marriage. The husband of first informant left house on 10th May 2022 and did not return home. First informant does not know his whereabouts. He is not responding to her phone calls. She had visited his office to see him but she was denied entry in the office and informed that he is out of station. There are two children out of wedlock. They are studying in school. The first informant does not have money to pay fees or for house hold expenses. Repeated attempts to contact her husband were futile. Earlier they were residing at Santacruz, Mumbai. Her brother in law was also residing with them. Since his behaviour was objectionable, she had invited her father in law and mother in law to stay with them. Initially she was working in a private company. Her father in law and mother in law were taunting that parents of their other daughter in law are providing several things but parents of complainant are not

providing anything. Her father in law and mother in law are insisting that she should buy 2 BHK flat from her father. Her father in law and mother in law told father of first informant that her brother in law should be made director in his company. At that time father of first informant informed them that company belongs to his brother and he cannot provide any job to brother in law of first informant. While the first informant was pregnant she was ill-treated. After delivery of both the children she was harassed and taunted. Accused used to taunt her that her child is of dark complexion. When the children were admitted to private school her father in law and mother in law insisted that they should go to government school to save money towards fees. On 8th May 2022 her husband picked quarrel with first informant and abused her for making phone call to his aunt. He caused damage to the household articles and deleted phone numbers of all her relatives from her cell phone. He pushed her. At that time her son fell down and sustained injury. They went to hospital for treatment. The father in law of first informant abused her father. There was quarrel between both sides. On 9th May 2022 her husband gave a call and informed her that her father had abused his father on cell phone. On 10th May 2022 her father in law forwarded audio clips of abuses made by first informant's father to him. The father in law of first informant then

informed all the relatives about the quarrels going in the family and circulated the clip to all the relatives. Hence the parents of first informant took her with them.

4. Learned advocate for Petitioners submitted that FIR is false. The statement of first informant was initially recorded on 15th July 2022 and at that time FIR was not registered, however, there is improvement in FIR dated 2nd August 2022. There was no demand of dowry. Offence u/s.498-A of IPC is not made out. There were no previous complaints against accused by Respondent no.2. The FIR has been registered after legal notice was forwarded to first informant. Husband of Respondent no.2 has left house. The allegations do not constitute cruelty. The incidents referred to in the FIR had occurred about three years ago. The FIR is barred by Law of Limitation. The allegations are vague. Vile Parle police have no jurisdiction to entertain the FIR. The allegations are of general nature. There are absolutely no allegations against Petitioner no.3. In the light of decision of Hon'ble Supreme Court in the case of State of Haryana Vs. Bhajanlal, the FIR may be quashed.

5. Learned APP and learned Advocate for Respondent no.2 submitted that there are clear allegations in the FIR. Overt act has been attributed to all the accused. The acts reflected in the FIR amounts to harassment resulting in mental and physical cruelty.

Investigation cannot be stalled. Investigation authority must be permitted to file charge sheet. Learned APP on instructions submitted that charge sheet is ready.

6. We have perused the FIR. From the contents of FIR it is apparent that overt act has been attributed to the Petitioners. This is not the stage to appreciate evidence. Police have completed investigation and charge sheet is ready. FIR is not an encyclopedia. Admittedly during investigation statements of other witnesses are recorded. Prima facie offence u/s.498-A of IPC is made out against Petitioners. The allegations made in the FIR tantamount to cruelty referred to u/s.498-A of IPC. The contention of Petitioners cannot be considered at this stage. The offence u/s.498-A of IPC is a continuing offence. The harassment continued for a substantial period of time. It cannot be said that FIR is barred by Law of Limitation. The statement dated 15th July 2022 is not part of FIR. The FIR dated 2nd August 2022 attributes overt act to the Petitioners. Hence no case is made out to quash impugned FIR.

ORDER

- (i) Criminal Writ Petition No.1528 of 2023 is dismissed;
- (ii) Interim relief granted by Order dated 25th January 2023 is vacated.

(PRAKASH D. NAIK, J.)
MST

(A.S.GADKARI, J.)