

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 577 OF 2021**

- | | |
|-----------------------------|----------------|
| 1. Shahrukh Papa Mahat | |
| 2. Farida P. Mahat | |
| 3. Papa B. Mahat | |
| 4. Sabiha N. Shaikh | |
| 5. Shahira Shaikh | ...Petitioners |
| Versus | |
| 1. The State of Maharashtra | |
| 2. Hina S. Mahat | ...Respondents |

Mr. Kuldeep U. Nikam for the Petitioners.

Ms Rutuja Ambekar, APP for the Respondent/State.

Ms Rebecca Gonsalvez, Appointed Advocate a/w. Ms Pritha paul
for Respondent No.2

**CORAM : PRAKASH D. NAIK &
N. R. BORKAR, JJ.
DATE : 02.04.2024.**

PC:-

1. The petitioners are charge-sheeted for offences under Sections 498-A, 504, 506 , 323 read with 34 of the Indian Penal Code (IPC). The said proceedings are arising out of First Information Report (FIR) dated 7.10.2020 registered with Karveer Police Station vide C.R.No.1457 of 2020 at the instance of respondent No.2/complainant.

2. The complainant has alleged that the marriage between the complainant and petitioner No.1 was solemnized on 7.2.2020. After the marriage, the petitioners ill-treated the complainant. There was demand of gold ornaments. She was assaulted. The harassment has caused physical and mental cruelty to the complainant.

3. Learned Advocate for the petitioners, on instructions, submitted that the petitioner Nos.1 to 3 are not pressing the reliefs in this petition and they may be permitted to prefer an application for discharge before the trial Court.

4. Learned Advocate for the petitioners submitted that the marriage was solemnized on 7.2.2020 and the FIR was registered on 7.10.2020. Respondent No.2 was residing at the matrimonial home for a short span of three and half months. The petitioner Nos. 4 and 5 are the sister-in-laws of the respondent No.2/complainant. The petitioner No.4 is residing in U.A.E. Vague and omnibus allegations are made against them.

5. Learned Advocate for respondent No.2 submitted that specific overt-act has been attributed to the accused. The passport entry indicates that the applicant No. 4 was in India during the relevant period referred by the complainant, in which, she caused harassment to the complainant. The FIR attributes role of abusing and ill-treatment to petitioner Nos.4 and 5. The medical case papers indicate that the complainant was required to take treatment. Although the incidents had occurred within short span of time, the nature of ill-treatment meted out to the complainant spelt out in detail in the FIR. Learned Counsel for respondent No.2 has relied upon the decision of Supreme Court in case of ***Mansoor Ali vs. State of Andhra Pradesh and ors. - 2023 SCC OnLine Sc 1121.***

7. In view of submission made by learned Counsel for the petitioners, petitioner Nos.1 to 3 are permitted to withdraw the petition and granted liberty to move an application for discharge before the trial Court.

8. The medical case papers which are part of charge-sheet indicate that the complainant was treated on 20.3.2020. She had complained about altercation with husband and sister-in-laws. The letter dated 26.10.2023 issued by Sai Clinic in response to the information sought by the Investigation Officer mentioned that the record of Clinic does not indicate that the complainant had taken treatment in the said hospital. The list of patients who had take treatment from 19.3.2020 and 20.3.2020 is provided to the Investigating Officer. Vague allegations in the FIR are not sufficient to prosecute the petitioner Nos.4 and 5 for the alleged offences.

9. Considering the aforesaid circumstances, we pass the following order:

ORDER

A] Writ Petition is partly allowed.

B] Petitioner Nos.1 to 3 are permitted to withdraw the petition with liberty to prefer an application for discharge before the trial Court.

C] The proceedings in R.C.C. No. 220 of 2021 arising out of FIR dated 7.10.2020 registered with Karveer Police Station vide C.R.No.1457 of 2020 are quashed against petitioner Nos.4 and 5.

(N.R. BORKAR, J.)

(PRAKASH D. NAIK, J.)