

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 505 OF 2020**

Kshitija Vijay Kakade

Age: 29 years, Occ.: Service

R/at: 101, Om Residency

Near Indian Model School,

Jule Solapur, Solapur

.....Petitioner

V/s.

1. The State Of Maharashtra
Through Vijapurnaka Police Station
Solapur
(CR No.616 of 2019)

2. Triveni Sachin Chabukswar
Age: 34 years, Occ.: Service
R/at : Block No.5, Janaki Nagar,
Jule Solapur, Solapur

.....Respondents

Mr. Samir Kumbhakoni, for the Petitioner.

Mr. Anand S. Shalgaonkar APP, for Respondent No.1-State.

**CORAM : A. S. GADKARI AND
DR NEELA GOKHALE, JJ.**

DATE : 4th SEPTEMBER, 2024.

ORAL JUDGMENT:- (Per A.S.Gadkari, J.)

1) By present Petition filed under Article 226 of the Constitution of India, the Petitioner, Original Accused No.6 has prayed for quashing of C.R.No. 616 of 2019 dated 22nd September 2019 registered with Vijapurnaka Police Station, Solapur City under Sections 498-A, 504, 506 read with 34 of the Indian Penal Code, 1860.

2) Record indicates that, by an Order dated 28th July 2020, this Court had directed to issue notice upon Respondents No.1 and 2 and not to file charge sheet *qua* the Petitioner without leave of the Court. By an Order dated 13th April 2023, the Petition was admitted and the ad-interim relief granted earlier was confirmed as interim relief.

2.1) Record further indicates that, the Respondent No.2 is duly served with the notice of the Petition. Petition was earlier called out for hearing on 10th June 2024 when despite service, none appeared for the Respondent No.2 and therefore, Petition was adjourned today for hearing. Today also none appears for the Respondent No.2.

3) Heard Mr. Kumbhakoni, learned Advocate for the Petitioner and Mr. Shalgaonkar, learned A.P.P. for the Respondent No.1-State. Perused record produced before us.

4) Perusal of First Information Report itself clearly indicates that, the Respondent No.2 has alleged that, the Petitioner was the fiancée/girl friend of her husband, i.e., Sachin M. Chabukswar, the principal accused in the said crime. That, in the month of October 2017, a person by name Kiran gave a phone call on the mobile phone of the informant and told her that her husband was having illicit relations with the Petitioner. She thereafter checked his mobile phone and found the photograph of the Petitioner therein. Respondent No.2 therefore, questioned her husband about it to which he dodged to answer. It is further alleged that thereafter on 28th

March 2019, the husband of the Respondent No.2 under the influence of liquor, gave gold bangles and gold necklace to the Petitioner and when the Respondent No.2 opposed to it, he pressed her neck and tried to throttle it. These are the precise allegations made by the Respondent No.2 against the Petitioner.

5) Admittedly, there is no allegation of assault or threats given by the Petitioner to the Respondent No.2. The allegations against the Petitioner are omnibus in nature. In the case of *U. Suvetha v. State by Inspector of Police & Anr.*¹, the Hon'ble Supreme Court in paragraph 18 has held that, '*By no stretch of imagination a girl friend or even a concubine in an etymological sense would be a 'relative'. The word 'relative' brings within its purview a status. Such a status must be conferred either by blood or marriage or adoption. If no marriage has taken place, then the question of one being relative of another would not arise.*' The same view is followed by the Hon'ble Supreme Court in the case of *Sunita Jha Vs. State of Jharkhand & Anr.*².

6) As noted earlier in present case even as per the allegation of the Respondent No.2, the Petitioner was the fiancée/girl-friend of the husband of the Respondent No.2 and therefore, the provisions of Section 498-A of IPC cannot be made applicable to her.

1 (2009) 6 SCC 757

2 (2010) 10 SCC 190

- 7) In view of the sub-paragraph number (1) of paragraph number 102 in the case of *State of Haryana & Ors. v. Bhajanlal & Ors.*³ in present case, the allegations made in the First Information Report even if they are taken at their face value and accepted in their entirety do not constitute any offence or make out a case against the Petitioner herein.
- 8) In view of the above, according to us, continuation of the present proceedings against the Petitioner would amount to sheer abuse of process of law and deserves to be quashed and set aside.
- 9) Petition is accordingly allowed in terms of prayer clause [A].
- 10) Rule is made absolute in the aforesaid terms.

(DR NEELA GOKHALE, J.)

(A.S. GADKARI, J.)

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3 1992 Supp (1) SCC 335