

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

WRIT PETITION NO.2762 OF 2023

Nikheelchandra Anil Zode,

Occupation : Service,

Residing at : 2/23, Juhu Neelsagar,

Gulmohar Lane, J.V.P.D. Scheme,

Andheri, Mumbai – 400056.

..Petitioner

Versus

1. **State of Maharashtra,**
through the Sr. Police Inspector,
Tasgaon Police Station,
C. R. Bearing Crime No.324 of 2023.

2. **Dr. Rita Nikheelchandra Zode @
Rita Sheshrao Kulkarni,**
Age : 40 years, Occupation : Service,
Residing at 199, Jay Tuljabhavani Nagar,
Tasgaon Punadi road, Tasgaon, Sangli,
Maharashtra – 416312. ..Respondents

WITH

WRIT PETITION NO.2763 OF 2023

1. **Sarita Anil Zode,**
Age : 64 years, Occupation : Homemaker.

2. **Mousami Anil Zode,**
Age : 44 years, Occupation : Service.

3. **Veenitkumar Anil Zode,**

Age : 42 years, Occupation : Service,
All Petitioners R/at.: 2/23, Juhu Neelsagar,
Gulmohar Road, J. V. P. D. Scheme,
Andheri, Mumbai – 400049. ..Petitioners

Versus

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through the Sr. Police Inspector,
Tasgaon Police Station,
C. R. Bearing Crime No.324 of 2023.

2. **Dr. Rita Nikheelchandra Zode @**
Rita Sheshrao Kulkarni,
Age : 40 years, Occupation : Service,
Residing at 199, Jay Tuljabhavani Nagar,
Tasgaon Punadi road, Tasgaon, Sangli,
Maharashtra – 416312. ..Respondents

Mr. S. R. Nargolkar a/w. Mr. Arjun Kadam & Ms. Neeta Patil for the
Petitioner.

Mr. Sagar Kasar a/w. Mr. Amol Wagh & Ms. Chaitali Bhogle for
Respondent No.2.

Mr. Namdeo Laxman Tarade, PSI, Tasgaon Police Station present.

**CORAM : A. S. CHANDURKAR &
JITENDRA JAIN, JJ.**

**RESERVED ON : 10th JANUARY 2024.
PRONOUNCED ON : 9th FEBRUARY 2024.**

JUDGMENT: (Per Jitendra Jain, J.)

1. With consent, heard finally at the admission stage. These two
writ petitions are heard together since both are based on same cause of

action and are therefore disposed of by common order. Writ Petition No.2762 of 2023 is filed by the Petitioner-Husband seeking quashing of First Information Report (FIR) dated 9th July 2023 filed against him by Respondent No.1 on a complaint from Respondent No.2-Wife. Writ Petition No.2763 of 2023 is filed by the relatives being mother, brother and sister of the Petitioner in Writ Petition No.2762 of 2023 praying for quashing of the very same FIR filed against them.

2. Facts relating to Writ Petition No.2762 of 2023 are discussed for adjudication of the issue raised before the Court.

3. **Narrative of relevant events:-**

- (i) The Petitioner and Respondent No.2 are husband and wife, who are married since February 2018. They met each other through “Jeevansathi” matrimonial site. Petitioner is working as Provident Fund Commissioner at Pune and Respondent No.2 is a judicial officer presently at Tasgaon Court.
- (ii) It is alleged in the FIR by Respondent No.2 that after marriage, the Petitioner refused to have a conjugal relationship with her. There were various matrimonial disputes between the Petitioner, his family and Respondent No.2. The matrimonial dispute seeking decree of divorce is filed by the Petitioner against Respondent No.2

before the Court of Civil Judge at Navi Mumbai in the year 2023.

The said divorce matter is pending as of today.

- (iii) In the FIR dated 9th July 2023, it is recorded that on 7th June 2023 at 10.30 a.m., the Petitioner and his brother entered the Chambers of Respondent No.2 and threatened her to sign mutual consent divorce petition. It is also recorded that the Petitioner informed her that he has sought necessary permission from the Court adjudicating the divorce matter so as to enable Respondent No.2 to appear through Video-Conferencing for the purpose of mutual consent decree for divorce.
- (iv) The Respondent No.2 further stated in the FIR that the Petitioner pulled her and made her to sit on the chair to sign the divorce papers, despite knowing that Respondent No.2 was getting late to discharge her official duty. The Respondent No.2 further stated that since she did not want to convey a wrong message at the place where she is working, she called her peon and sat on dias for discharging her duties.
- (v) On the same day i.e. on 7th June 2023 in the afternoon at 2.45 p.m., she sat on the dias to discharge her official duties, at which time, she was informed by her peon that her mother-in-law, brother-in-law and sister-in-law are sitting in her Chambers. The

Respondent No.2 immediately rose from Court and proceeded towards her Chamber. The Respondent No.2 further stated that she tried to explain her mother-in-law and sister-in-law that the topic of divorce can be discussed after the Court hours since she was busy in discharging her official duties in the afternoon. It is stated by Respondent No.2 that the mother-in-law and sister-in-law directed Respondent No.2 to sign the papers and till that does not happen, they will not leave the office of Respondent No.2. However, Respondent No.2 called the security officer to take her in-laws out of the chambers.

- (vi) The Respondent No.2 further stated in the FIR that this incident was informed by her to her superior in the evening. This resulted in Respondent No.2 being frightened and from that day onwards thoughts of committing suicide started coming in her mind. The Respondent No.2 further stated that from 2018 till February 2023, she was in regular touch with Petitioner on WhatsApp, phone, etc. since both of them were serving at different places. The Respondent No.2 further stated that she had celebrated valentine's day in Hotel Taj, Pune in February 2023 and she also spent time with the Petitioner and his friends in Lonavala.

(vii) The Respondent No.2 further stated that it has come to her knowledge that Petitioner and one Neha Ghorpade are planning to get married and, therefore, the Petitioner was insisting on getting divorce from her.

4. Based on the aforesaid incidents and specially events which occurred on 7th June 2023, the Respondent No.2 on 9th July 2023 approached the Police Station at Tasgaon, who recorded the statement and lodged the FIR against the Petitioner. In the said FIR, the provisions of Section 186, 342, 353, 498A and 506 of the Indian Penal Code, 1860, are invoked by Respondent No.1 based on the information received from Respondent No.2. The period of offence stated in the FIR is from 1st October 2018 to 7th June 2023. The Petitioner who is presently working in Pune was called for investigation by Respondent No.1 at Tasgaon.

5. It is on the above backdrop that the present petition is filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, seeking interalia quashing of FIR bearing C. R. No.0324 of 2023 registered with Tasgaon Police Station for offences punishable under Section 498A, 353, 342, 186, 506 read with 34 of the Indian Penal Code, 1860.

Submissions of the Petitioner:-

6. The Petitioner after taking us through the FIR submitted that on a bare reading of the FIR, none of the ingredients of Sections 186, 342, 353, 498-A and 506, which are sought to be levied are attracted to the facts of the present case. The Petitioner submits that Respondent No.2 being a judicial officer at the place where complaint is lodged by her is misusing her position to harass the Petitioner. The Petitioner submits that there is a matrimonial dispute of divorce pending between the Petitioner and Respondent No.2 and as a counter blast to the same, Respondent No.2 has lodged the present complaint. The Petitioner further submits that at the behest of Respondent No.2, Officers of Respondent No.1 are issuing various letters to the superior of the Petitioner and to the employer of the relatives, (who have filed the Second Writ Petition) seeking various information which is in no way related to the issues between the Petitioner and the Respondent No.2. The Petitioner also pleaded for quashing of FIR on ground of delay in registering the FIR. The Petitioner submits that this is a fit case, where this Court should exercise its jurisdiction under Section 482 of the Code of Criminal Procedure, 1973 (for short "Cr.PC.") read with Article 226 of the Constitution of India to quash the FIR dated 9th July 2023. The Petitioner in support of his contention has relied upon the following

decisions of this Court and the Supreme Court:-

- (i) **Lalita Kumari Vs. Government of Uttar Pradesh¹.**
- (ii) **Ramesh Sitaldas Dalal & Anr. Vs. State of Maharashtra².**
- (iii) **Smt. Vrushali Jayesh Kore Vs. The State of Maharashtra & Anr.³.**

The Petitioner, therefore, prayed for allowing the petition in terms of prayer clause (b).

Submissions of the Respondents:-

7. Per contra, the Respondent No.2-wife opposed the petition and submitted that this is not a case where this Court should exercise its jurisdiction to quash the FIR. The FIR does show a *prima-facie* case for offences for which the FIR is lodged and the investigation is in progress. The Respondent No.2 also submitted that she has explained the delay in filing the FIR in her statement being the “fear” in lodging the complaint. Respondent No.1-State supported Respondent No.2 in opposing the present petition and submitted that investigation is in progress and will be over in 3 to 4 months. Learned counsel for Respondent No.1 in alternate submitted that if the Petitioner has any apprehension of bias in investigation then the same may be directed to be transferred to another

1 (2014) 2 SCC 1.

2 2024 (1) ABR (CRI) 29

3 2023 (1) ABR (CRI) 514

officer. Both the Respondents prayed for dismissal of the present writ petition.

Analysis and conclusion:-

8. Section 482 of the Cr.P.C. provides that nothing in the said Court shall be deemed to limit or effect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Court or to prevent abuse of any Court or otherwise to secure the ends of justice.

9. The issue when the Court should exercise its powers under Section 482 read with Article 226 of the Constitution of India has been exhaustively dealt with by the Supreme Court in the case of **State of Haryana & Ors. Vs. Bhajan Lal & Ors.**⁴. On a reading of the decision of the Supreme Court, broad categories of cases in which the inherent power under Section 482 of the Cr.P.C. could be exercised are as under:-

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the

4 AIR 1992 SC 604

accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

10. In this connection for the Court to exercise its jurisdiction under section 482 of the Cr.P.C., it is apt to refer to paragraph 30 of the judgment of the Supreme Court in the case of **Rajiv Thapar & Ors. Vs. Madan Lal Kapoor**⁵, which reads thus:-

“30. the following steps to determine the veracity of a prayer for quashing raised by an accused by invoking the power vested in the High Court under Section 482 Cr.P.C.:

30.1. Step one: whether the material relied upon by the accused is sound, reasonable, and indubitable i.e. the material is of sterling and impeccable quality?

30.2. Step two: whether the material relied upon by the accused would rule out the assertions contained in the charges levelled against the accused i.e. the material is sufficient to reject and overrule the factual assertions contained in the complaint i.e. the material is such as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false?

⁵ (2013) 3 SCC 330

30.3. Step three: whether the material relied upon by the accused has not been refuted by the prosecution/ complainant; and/or the material is such that it cannot be justifiably refuted by the prosecution/complainant?

30.4. Step four: whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

30.5. If the answer to all the steps is in the affirmative, the judicial conscience of the High Court should persuade it to quash such criminal proceedings, in exercise of power vested in it under Section 482 Cr.P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when it is clear that the same would not conclude in the conviction of the accused.”

11. The above decision has stood the test of the time and is equally a guiding force even today.

12. In the light of the above decision of the Supreme Court and the provisions of Section 482 of the Cr.P.C., we now propose to deal with each of the offences noted in the FIR to ascertain whether the case of the Petitioner falls under any of the category laid down in the **Bhajan Lal’s case (supra)**. On a reading of the FIR and its application to the sections of the offences which are invoked by Respondent No.1, if on the face of it, these sections are not attracted then this Court could exercise its jurisdiction under Section 482 of the Cr.P.C. to quash the proceedings. However, if there is a *prima-facie* case for further investigation, then this Court would restrain itself from exercising its inherent powers to stall the investigation. We, therefore, now propose to analysis the sections

which are invoked by Respondent No.1 in the FIR.

13. Section 186 of the IPC reads as under:-

“186. Obstructing public servant in discharge of public functions – Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.”

14. Section 186 is attracted to a person who voluntarily obstructs a public servant to discharge its public functions. The incident of 7th June 2023 in the morning session as stated and recorded in the FIR states that the Petitioner along with his brother entered the Chambers of Respondent No.2 and threatened her to sign the divorce papers with a request to Respondent No.2 to appear through V.C. before the Civil Court, where the divorce proceedings are filed. The Respondent No.2 further stated that she informed Petitioner that due to heavy work load, the issue of divorce can be discussed later on. The Respondent No.2 further stated that since she did not want to send a wrong message she kept herself cool. She further stated that the petitioner and his brother left the chamber in the afternoon. In the FIR, it is nowhere stated that the Petitioner and his brother did not allow the Respondent No.2 to sit on the dias in the morning session to discharge her duties as a Judge. It is also not the case of Respondent No.2 as stated in the FIR that she did not sit in the Court in the morning session on time. In our view, based

on what is stated and recorded as incident which occurred on 7th June 2023 in the morning session would not amount to obstructing a public servant in the discharge of her public functions. We cannot lose sight of the fact that the verbal discussion which is stated to have taken place in the morning session on the date of incident revolved around the matrimonial dispute between the Petitioner and the Respondent No.2 and it is in that context that the issue has to be looked into by this Court.

15. The incident post lunch on 7th June 2023, as stated and recorded in the FIR again relates to the Petitioner's mother, sister and brother insisting Respondent No.2 to sign the divorce papers. Respondent No.2 herself rose from the dias in the afternoon session when she was informed by her peon that her mother-in-law and sister-in-law are sitting in the chambers. The mother-in-law and sister-in-law did not obstruct Respondent No.2, because she was already sitting in the Court hall and the mother-in-law and sister-in-law did not enter the Court hall but were sitting in the chambers of Respondent No.2. The Respondent No.2 in her statement herself as recorded states that she rose from the dias when informed about her mother-in-law and sister-in-law's visit. The verbal discussion between the Respondent No.2, the mother-in-law and sister-in-law again related to matrimonial dispute, although, as per the statement she called the police to escort the

mother-in-law and sister-in-law out of the Chambers. In our view, looking at what is recorded in the FIR and looked in the context of the matrimonial dispute, one cannot come to a conclusion that any case is made out for invoking Section 186 of the IPC. There does not appear to be any obstruction to Respondent No.2 in discharge of her public function but on the contrary she discharged her official duties on that day and, therefore, the provisions of Section 186 are not attracted.

16. Section 342 of the IPC which reads as under:-

***“342. Punishment for wrongful confinement.-** Whoever wrongfully confines any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.”*

17. Section 342 provides that whoever wrongly confines any person shall be punishable with imprisonment or with fine or with both. Section 340 of the IPC, defines “wrongful confinement” to mean wrongly restraining any person in such a manner as to prevent a person from proceeding beyond certain circumscribing limits. On a reading of the FIR, the Petitioner and his relatives verbally stated to Respondent No.2 to sign the matrimonial divorce papers and till then they will see how she goes to Court. However, the Respondent No.2 did attend the Court as per her usual time in the morning and afternoon session. The incident happened in the Chambers of Respondent No.2 and the Petitioner, his relatives and Respondent No.2 were all in the same room

as stated in the FIR. There is no material of any confinement of Respondent No.2. In our view, this would not amount to “confinement” as defined in section 340 of the IPC and, therefore, the provisions of section 342 of the IPC also cannot be invoked.

18. Section 353 of the IPC which reads as under:-

“353. Assault or criminal force to deter public servant from discharge of his duty.- *Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”*

Section 351 of the IPC which reads as under:-

“351. Assault- *Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.”*

Explanation. – Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparations such a meaning as may make those gestures or preparations amount to an assault.

Section 350 of the IPC which reads as under:-

“350. Criminal force- *Whoever intentionally uses force to any person, without that person’s consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other.”*

19. In our view, on a reading of the FIR, there does not appear to have made any case by the Respondent No.1 to invoke the provisions of

Section 353 of the IPC. In the FIR, the only thing which is stated to have occurred on 7th June 2023 is that the Petitioner pulled the Respondent No.2 and made her sit on the chair to sign the divorce papers. In the afternoon session, what is recorded in the FIR is only verbal talk in high volume with respect to the signing of divorce papers. In our view, the only reference to the force, if any, is the Petitioner's pulling Respondent No.2 and making her sit on the chair to sign the divorce papers. This, in our view, would not attract the provisions of Section 353 of the IPC moreso, the act of pulling Respondent No.2 to make her sit on the chair would not fall within the meaning of the term "force", "criminal force" or "assault" as explained in Sections 349, 350 and 351 of the IPC respectively. Furthermore, as observed by us above and in the context of a dispute between the Petitioner and the Respondent No.2 with respect to being matrimonial, it cannot be said that the said act of pulling Respondent No.2 and making her sit on the chair would prevent Respondent No.2 in carrying out her duty as a public servant.

20. Section 353 of the IPC would get attracted if the assault or criminal force is to deter a public servant from discharge of his duty. The phrase 'deter' has to be read along with the phrase 'discharge of his duty'. In our view, the force which is sought to be used as per Section 353 should be such which would result into threat or fear from

discharging of duty by public servant. There has to be some nexus between the use of force which would deter a public servant from discharging his duties. On a perusal of the FIR, we do not find any such force having being used by the Petitioner, which would deter or create fear in the mind of Respondent No.2 from discharging her duty as Judicial Officer. The act by the Petitioner of pulling Respondent No.2 and making her sit on the chair has occurred in the chambers of Respondent No.2 and not in the Court hall. According to the informant, she thereafter called her peon and went on to the dias of her court room. There is thus no statement of the informant that in view of such act, a fear was sought to be created in her mind or such act was with a view to deter her from discharging her duty.

21. Even the incident in the afternoon whereby there was exchange of words between the Respondent No.2 and family members of the Petitioner were in the chambers of Respondent No.2. On being informed on the dias at 2.45 p.m. the informant retired to her chamber, where she was again told to sign the divorce papers. There were verbal exchanges between the parties after which the informant's relatives being, brother-in-law and mother-in-law were required to be taken out of the chamber by informing the police constable on duty. The act of retiring to the chamber is a voluntary act of the informant on being told

by her peon. The allegations do not indicate any act of deterrence or intent to cause fear in the mind of the informant from discharging her public duties. There is no statement that the informant was in any manner prevented or deterred from discharging her public duty. In fact, thereafter the informant proceeded to discharge her duties in Court. In this backdrop, such a verbal exchange, in our view, did not amount to deterring the informant in discharge of her duty.

22. The matrimonial dispute between the Petitioner, his family members and Respondent No.2 appears to be the genesis and it is in this context that the provision of Section 353 has to be seen. The acts with respect to the matrimonial dispute certainly would not amount to Respondent No.2 being prevented or deterred from discharging her duty. Therefore, in our view, the essential ingredients and connection of determent with 'discharge of his duty' are absent in the FIR and therefore said provision is not applicable. It is also important to note that the reference to Court proceedings in the FIR while narrating the morning incident of 10:30 am refers to Court proceedings of the matrimonial dispute between the Petitioner and Respondent No.2 and not to the Court proceedings where Respondent No.1 is presiding. The force alleged to be used was with respect to signing of the matrimonial dispute papers and furthermore the afternoon incident on 7th June 2023

as narrated by the Respondent No.2 in the FIR specifically states that in-laws stated Respondent No.2 that they will take signature by visiting Respondent No.2's house.

Illustration under section 351 of the IPC also shows that provisions of section 351 are not attracted in the case before us.

23. Therefore, in our view, reading the FIR as it is, there does not appear to be any material for invoking the provisions of Section 353 of the IPC. We do not find on a reading of the FIR that there is any intention which has been stated by Respondent No.2 in her statement which would amount to cause, injury, fear or annoyance to the Respondent No.2. The phrase 'intending/intentionally' used in sections 351 and 350 of the IPC would be a case where the acts which would cause injury, fear or annoyance are planned. It is not that every word on the spur of the moment would amount to using force to cause fear, injury or annoyance, but it is those words which are planned with an intention to cause injury or annoyance that the ingredients would be satisfied which is absent on a reading of the FIR.

24. Explanation to Section 351 of the IPC states that mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault. The first part of the

explanation squarely applies to the facts of the present case, inasmuch as, the exchange of words between the Petitioner and his family members of Respondent No.2 would not amount to an assault. In the FIR, the words reproduced in the statement of Respondent No.2 as what transpired from what was said by the Petitioner and his relatives does not refer to any gestures or preparations which would amount to cause any injury, fear and annoyance to the Respondent No.2 so as to satisfy the ingredients of assault as defined in Section 351 of IPC read with Section 350 of IPC.

Therefore, the ingredients of an offence under Section 353 of the IPC are not made out in the First Information Report.

25. Section 498-A of the IPC reads as under:-

“498A. Husband or relative of husband of a woman subjecting her to cruelty.- Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.- For the purposes of this section, “cruelty” means -

- (a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or*
- (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”*

26. Under Section 498A of the Code, if the husband or relatives of the husband of a woman subjects such woman to cruelty the offence thereunder is attracted. Under Explanation to Section 498A any wilful

conduct of such nature that is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health of the woman or her harassment with a view to coerce her or any person related to her to meet any unlawful demand for any property or valuable security or on account of failure by her or any person related to her to meet such demand amounts to cruelty. Perusal of the First Information Report indicates that after the Petitioner and the Respondent No.2 were married on 24/02/2018, the Respondent No.2 states that initially she was transferred to Belapur, Vashi after which she started residing also with her in-laws at Juhu. It is further stated that the Petitioner was not in a position to maintain physical relation with her and she advised her to have some medical advise in that regard. There is reference to certain differences between the Petitioner and the Respondent No.2 during this period after which in April, 2023 she received a legal notice that was issued by the Petitioner seeking divorce. According to her, this resulted in thought of committing suicide coming to her mind. Thereafter, reference is made to the incident of 07/06/2023.

On perusal of the entire First Information Report, it is seen that there is no demand made of any property or valuable security either from the Respondent No.2 or any of her family members. Insofar as

Explanation (a) to Section 498A is concerned, we find that in the First Information Report the Respondent No.2 has referred to her differences with the Petitioner and statements made by her in-laws for leaving her job. Receipt of legal notice seeking divorce as issued by the Petitioner has also been referred to. In our view, on complete reading of the First Information Report, allegations that satisfy the ingredients of Section 498A of the Code are not found. Differences between the Petitioner and the Respondent No.2 as well as her in-laws in the form of bickering would not constitute an offence under Section 498A of the Code. We therefore find that the said provisions are not attracted in the present case.

27. Sections 503 and 506 of the IPC reads thus:-

“503. Criminal intimidation.- Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.”

“506. Punishment for criminal intimidation.- Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

If threat be to cause death or grievous hurt, etc. - and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or [imprisonment for life], or with imprisonment for a term which may extend to seven years, or to impute, unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both..”

28. The provisions of Section 506 are attracted, if the acts alleged fall within the meaning of the term “criminal intimidation” as defined in Section 503 of the IPC. The threat which is contemplated in Section 503 is a threat with injury to a person, reputation or property with the intention to cause the other person to do any act which is not legally bound to do or to omit to do an act which the other person is legally entitled to do. In the instant case, as recorded and stated in the FIR, there is no act which would result in injury to the Respondent No.2. The verbal threat to sign the divorce papers would certainly not be a case falling under Section 503 of the IPC. Therefore, even on this account, we fail to understand how Section 506 is sought to be invoked in the facts of the present case.

29. Additionally, we may also observe that Respondent No.2 herself is a judicial officer. The incident which is referred to and stated in the FIR is of 7th June 2023, whereas the complaint is made and FIR lodged on 9th July 2023, which is almost after a period of 1 month. The incident on 7th June 2023 has been stated by invoking Section 353 of the IPC. The FIR was lodged on 9th July 2023 which is almost after a month. It is stated that due to seriousness of the matter and as the incident had occurred at the workplace, the Respondent No.2 avoided to give the

report. This aspect when considered cumulatively with all other aspects goes to show that the FIR is lodged only as a counter blast to the matrimonial dispute between the Petitioner and the Respondent No.2. It is also important to note that Respondent No.2 in her FIR itself has recorded that in the year 2022-2023, she alongwith Petitioner had spent time with the friends of the Petitioner and also celebrated the birthday of the Petitioner as well as her own birthday. They also spent time together on Valentines day at Taj, Pune. During this period, there were exchange of WhatsApp, Email, etc. These facts cannot be lost sight of while exercising the powers conferred under Section 482 of the Cr.P.C. by this Court.

30. In our view, the analysis made by us above would squarely fall within the guidelines laid down in the case of **Bhajanlal (supra)** for this Court to exercise its jurisdiction under Section 482 of the Cr.P.C., especially clauses (1) and (3). There does not appear to be any case for continuing the investigation pursuant to the FIR under consideration as the same would amount to an abuse of the process of law.

31. We agree with the decisions relied upon by the Petitioner in the case of **Ramesh Dalal & Anr. Vs. State of Maharashtra (supra)** and **Vrushali Kore (supra)** in support of the Petitioner's case in Writ Petition No.2763 of 2023, wherein the challenge to the FIR is made by the

relatives of the Petitioner in Writ Petition No.2762 of 2023.

32. In our view, this is a prefect case where this Court should exercise its jurisdiction to prevent the abuse of the process of the Court so as to secure the ends of justice. In these circumstances, the writ petitions are allowed in terms of prayer clause (b) in Writ Petition No.2762 of 2023 and prayer clause (b) in Writ Petition No.2763 of 2023 which reads as under:-

“Writ Petition No.2762 of 2023:-

- (b) *Issue a Writ of Mandamus or any other writ of such nature and thereby direct quashment of FIR bearing C.R. No.0324 of 2023 registered with the Tasgaon Police Station for offences punishable under Sections 498-A, 353, 342, 186, 506 and 34 of the Indian Penal Code, 1860 (IPC).*

Writ Petition No.2763 of 2023:-

- (b) *Issue a Writ of Mandamus or any other writ of such nature and thereby direct quashment of FIR bearing C.R. No.0324 of 2023 registered with the Tasgaon Police Station for offences punishable under Sections 498-A, 353, 342, 186, 506 and 34 of the Indian Penal Code, 1860 (IPC).”*

(JITENDRA JAIN, J.)

(A. S. CHANDURKAR, J.)