

Sourabh Shriniwas Joshi and others	...	Petitioners
Versus		
The State of Maharashtra and another	...	Respondents

Mr. Ravindra Pachundkar for the Petitioners.
Ms. M.M. Deshmukh, APP for the State.
Mr. S.S. Redkar for Respondent No.2.

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

DATED : 15th FEBRUARY 2024

P.C. :-

. Heard both the sides.

2. The Petitioners are charge-sheeted for offences under Sections 498A, 376, 313, 323, 506 r/w. 34 of Indian Penal Code (IPC). The First Information Report (F.I.R.) was registered on 3rd October 2021 with Chinchwad Police Station vide Crime No.318 of 2021. On completing investigation, charge-sheet is filed.

3. The case of the prosecution in brief is as under :

The marriage between Respondent No.2/first informant and the Petitioner No.1 was solemnized on 2nd July 2018. Pursuant to marriage, the complainant joined the matrimonial home and started residing with the accused. The marriage of sister-in-law of the complainant – Sonal Sohoni was performed in 2013 and she is residing with her husband. All the accused demanded Rs.25 lakhs from the

complainant for purchasing a new flat. The complainant expressed her inability to fulfill the demand on account of financial status of her father. The accused ill-treated her, she was assaulted. In May 2020, Respondent No.2 left the matrimonial home and went to her parents. In September 2020, the accused visited the complainant and assured that she will not be ill-treated. She returned to matrimonial home in September 2020. The husband of complainant occupied the premises on leave and licence basis and both of them started residing together. The harassment at the instance of her husband continued. She was assaulted. The husband of her sister-in-law visited the house of the complainant in October 2020 and subjected her to sexual assault. He repeatedly visited her house when her husband was not there and forcefully subjected her to sexual assault. She conceived. She was forced to terminate her pregnancy. In June 2021, the complainant received notice intimating her that she should remain present in Court. Accused No.1 (husband) had filed the Petition for divorce. He had installed the camera in the bedroom and produced evidence in divorce proceedings against complainant. The F.I.R. was lodged on 3rd October 2021. On completing investigation, charge-sheet is filed.

4. Learned Counsel for the Petitioner submitted that the F.I.R. has been registered out of vendetta. The allegations are concocted. There is delay in lodging F.I.R. The allegations are vague. The offence under Section 313 of IPC is not made out. The pregnancy was terminated with the consent of the complainant. The form of consent for abortion was filled up by the complainant which shows that she had consented. The statement of the Doctor recorded during the course of investigation indicates that the pregnancy was terminated with the

consent of the Respondent No.2. The marriage of sister-in-law Sonal was performed in 2013 and she has been residing separately since then. She is falsely implicated in this case. The F.I.R. mentions that the Respondent No.2 and the Petitioner No.1 started residing in the rental premises from September 2020 and the question of harassment being caused to her by Petitioner Nos.2 to 4 does not arise. The Petitioner Nos.2 and 3 are the senior citizens. Petitioner No.4 is the married sister-in-law of the complainant. They are falsely implicated in this case with a view to cause harassment to them. Petitioner no.1 has filed Petition for divorce prior to registration of F.I.R.

5. Learned APP submitted that F.I.R. and the statements of witnesses spells out the role played by the Petitioners in causing cruelty to the complainant. There was a demand of amount of Rs.25 lakhs at the instance of all the accused. Specific overt act has been attributed to the Petitioners causing harassment to the complainant. Charge-sheet is filed.

6. Learned Counsel for Respondent No.2/complainant submitted that there is sufficient evidence against the Petitioners to prosecute them for the aforesaid offences. There was demand of Rs.25 lakhs at the instance of all the accused. The form was filled up by the Respondent No.2 and accused No.5. It was forced abortion. The contentions of the Petitioners cannot be accepted at this stage. On completing investigation, charge-sheet is filed. All the grounds urged by the Petitioners are to be agitated at the time of trial. All the Petitioners have played active role in causing harassment to the complainant. They were abuses, intimidation or assault. Hence, no case is made out to quash the charge-sheet.

7. We have perused the documents on record. The marriage between the Petitioner No.1 and Respondent No.2 was performed on 2nd July 2018. In September 2020, the Petitioner No.1 and Respondent No.2 had allegedly started residing together in the rental premises. It is also apparent that marriage of Petitioner No.4 was solemnized in 2013 and she is residing at Nigdi. These facts are spelt out in the F.I.R. The Petitioner No.1 has filed a Petition for divorce. The Petitioner Nos.2 and 3 are senior citizens. The F.I.R. and the statement of witnesses indicate that there are vague and omnibus allegations against Respondent Nos.2 to 4. However, there are specific allegations against Petitioner No.1. The Respondent No.2 was residing with the Petitioner No.1 from September 2020. The alleged sexual assault is attributed to accused No.5. He is not before the Court. Considering the allegations spelt out in the F.I.R. and statement of witnesses, the prayer for quashing charge-sheet qua Petitioner No.1 cannot be granted. However, considering the factual aspect as stated above, the proceedings can be quashed against Petitioner Nos.2 to 4.

ORDER

- (i) The prayer for quashing the charge-sheet qua Petitioner No.1 stands rejected.
- (ii) The proceedings in Sessions Case No.404 of 2022 pending before the Sessions Court at Pune arising out of Crime No.318 of 2021 registered with Chinchwad Police Station are quashed as against Petitioner Nos.2 to 4.
- (iii) Writ Petition stands disposed off.

(N.R. BORKAR, J.)

(PRAKASH D. NAIK, J.)