

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1554 OF 2023

Harsha Pankaj Bhatia

...Petitioner

Versus

State Of Maharashtra And Anr

...Respondents

Ms. Minal J. Chandani i/by Jaiwant S. Chandnani Associates
Advocate for Petitioner.

Mr.Satyakumar Shettigar Advocate for Respondent No.2.

Mr. Anand S. Salgaonkar, APP for Respondent-State.

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

DATE : 21st FEBRUARY 2024

P.C.:-

1. The petitioner is challenging the proceedings in R.C.C. No. 4089 of 2022 pending before the Court of learned J.M.F.C., Thane, arising out of F.I.R. dated 9th July 2022 registered with Kopri Police Station vide C.R. No. 133 of 2022 for offences under Sections 498-A, 406, 323, 506, 504 read with 34 of the Indian Penal Code, 1860.

2. FIR was registered at the instance of Respondent No.2 alleging that, the marriage between the complainant and accused No.1 was performed on 30th October 2020. After the marriage, the complainant joined matrimonial home. She was ill-treated by accused. There was demand of dowry. She was abused and assaulted. On completing investigation, charge-sheet is filed.

3. Learned Advocate for petitioner submitted that, the petitioner is sister-in-law of the complainant. She is married and residing at Oman from 2016. She is falsely implicated in this case. The allegations spelt out in the F.I.R. cannot be said to cause physical and mental cruelty to the complainant. The allegations are vague.

4. Learned APP submitted that, in the FIR it is stated that, while complainant was residing at matrimonial home, the petitioner had abused her.

5. Learned Advocate for Respondent No.2 submitted that, there are sufficient allegations against the petitioner in the FIR. Petitioner had abused the complainant causing her mental cruelty. FIR also indicate that, there was demand of 25 lakhs as dowry by the accused from complainant.

6. Undisputedly, the petitioner is sister-in-law of complainant. According to complainant, in October 2021 the petitioner was residing at complainant's matrimonial home. At that time she abused the complainant and told her that she is not fit to be wife of her brother. While summarising the allegations in concluding paragraph of the FIR, the complainant stated that, demand of Rs. 25 lakhs made by the accused. On reading the FIR it is apparent that, the allegations of demand of dowry are attributed to the other accused. In the light of the vague and omnibus allegations which are

not sufficient to cause physical and mental cruelty to the complainant, the petitioner cannot be prosecuted for the alleged offences.

ORDER

- (i) Criminal Writ Petition No.1554 of 2023 is allowed.
- (ii) The proceeding in R.C.C. No. 4089 of 2022 pending before the Court of learned J.M.F.C., Thane, arising out of F.I.R. dated 9th July 2022 registered with Kopri Police Station are quashed and set aside.
- (iii) Criminal Writ Petition stands disposed off.

(N. R. BORKAR, J.)

(PRAKASH D. NAIK, J.)