

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 805 OF 2021**

- | | | |
|----|--------------------------|----------------|
| 1. | Lata Ramesh Pabale | |
| 2. | Ramesh K. Pable | |
| 3. | Bhakti Pradhan (Pable) | ...Petitioners |
| | Versus | |
| 1. | The State of Maharashtra | |
| 2. | Kiran A. Pable | ...Respondents |

Mr. Niranjan Mundargi a/w. Ms Keral Mehta for the Petitioners.
Ms M.M. Deshmukh, APP for the Respondent/State.
Mr. Rahul Kadam for Respondent No.2.

**CORAM : SMT ANUJA PRABHUDESSAI &
N. R. BORKAR, JJ.**

**RESERVED ON : 09 JANUARY 2024.
PRONOUNCED ON : 06 FEBRUARY 2024.**

ORDER (PER N.R. BORKAR, J.)

1. The present petition under Article 226 of the Constitution of India is filed to quash the First Information Report No.653 of 2019 dated 17 July 2019 registered at Hadapsar Police Station, Pune city for the offences punishable under Sections 377, 498-A, 406, 420, 323, 504 and 506 read with 34 of the Indian Penal Code.

2. The aforesaid crime came to be registered at the instance of respondent No.2/complainant. The petitioner No.1 is the mother-in-law, petitioner No.2 is the father-in-law and petitioner No.3 is the sister-in-law of the respondent No.2.

3. The marriage of respondent No.2 and Anant R. Pable, the son of petitioner Nos.1 and 2 was solemnized on 27 November 2009. According to respondent No.2, pursuant to the demand made by petitioner Nos.1 and 2, several silver, gold and diamond ornaments were presented to her at the time of her marriage. Before going for honeymoon, at the instance of petitioner Nos.2 and 3, she kept the said ornaments with them. She has alleged that her husband had subjected her to cruelty and when she disclosed about it to the petitioners, they told her to tolerate it. She has further alleged that during her stay with the petitioners, the petitioner No.3 used to force her to eat stale food. In addition, the allegations against the petitioners are of non-return of her ornaments worth Rs.27 lakhs.

4. We have heard the learned counsel for the petitioners, learned counsel for respondent No.2 and learned APP for respondent/State.

5. The learned counsel for the petitioners submits that respondent No.2 has made vague and general allegations against the petitioners, which even if accepted in their entirety would not constitute offence under Section 498-A of IPC. It is submitted that petitioner No.3 is the married sister-in-law, living outside India and still she is roped in by making all sorts of improbable and false allegations. The learned counsel for the petitioners submits that respondent No.2 in her Whats-App message dated 9 June 2016 sent to her husband has admitted that she has received all her ornaments. It is submitted that

the petitioners, therefore, cannot be made to face the trial on the basis of such false and improbable allegations.

6. On the other hand, learned counsel for respondent No.2 submits that in the FIR there are specific allegations against the petitioners about cruelty and misappropriation. It is submitted that the defense of the petitioners cannot be taken into consideration at this stage.

7. We have perused the first information report. Perusal of the FIR shows that respondent No.2 and her husband both are Engineers. After marriage, till their separation they were staying in America. The allegations of cruelty and assault are essentially against the husband. The allegations against the petitioners are that when she disclosed about the alleged cruelty to them, they told her to tolerate it. The petitioner No.3 is married sister-in-law. The allegation against the petitioner No.3 is that she used to force respondent No.2 to eat stale food. The allegations against the petitioner No.3 do not appears to be probable. Apart from it, the allegations against the petitioners even if accepted in their entirety would not constitute '*cruelty*' within the meaning of Section 498-A of the IPC.

8. As regards the allegations relating to non-return of ornaments, respondent No.2, in Whats - App message dated 9 June 2016 which was sent by her to her husband, has admitted that she has received her entire ornaments. Hence, the allegations of misappropriation is a creature of afterthought

with oblique motive to rope in the petitioners in the matrimonial dispute.

9. In ***Kahkashan Kausar alias Sonam and ors. vs. State of Bihar and ors.***¹ as well as in ***Abhishek Vs. State of Madhya Pradesh***², the Hon'ble Supreme Court referred to previous decisions wherein concern was expressed over the misuse of Section 498A of IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analyzing the long term ramifications of a trial on the complainant as well as the accused. The Apex Court cautioned that false implication by way of general *omnibus* allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law and has warned the Courts from proceedings against the relatives and in-laws of the husband when no *prima facie* case is made out against them. The Apex Court also emphasized that a criminal trial leading to an eventual acquittal also inflicts severe scars upon the accused and such an exercise must therefore be discouraged.

10. Considering the facts and circumstances of the case, in our view, this is a fit case to exercise the powers under Section 226 of the Constitution of India to quash the FIR *qua the* petitioners. Hence, the following order is passed.

1 (2022) 6 SCC 599

2 2023 Livelaw SC 731

ORDER

A] The Criminal Writ Petition is allowed.

B] The C.R. No.653 of 2019 dated 17 July 2019 registered at Hadapsar Police Station, Pune city for the offences punishable under Sections 377, 498-A, 406, 420, 323, 504 and 506 read with 34 of the Indian Penal Code is quashed *qua* the petitioners.

C] The Petition is disposed of in the aforesaid terms.

(N.R. BORKAR, J.)

(SMT. ANUJA PRABHUDESSAI, J.)