

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1455 OF 2023

Miss Vijayshree Jagannath Shetty
@ Soni Shetty, Age 40 years,
R/o.103, C Wing, 1st floor,
Devraj Co-op. Hsg.Society, S.V.Road,
Goregaon (W), Mumbai-400 062.

Applicant

versus

1. The State of Maharashtra
2. Sweta Roshank Shetty, age 33 years,
R/o.A-101, Eden Estate,
Sector-10, Plot No.45, Kamothe,
Navi Mumbai-410209.

Respondents

Mr.Shreyansh Mithare with Ms.Anjali Nimbkar, Advocates for Applicant.

Ms.Simran Wagle i/by Uma Kshirsagar Wagle, Advocate for Respondent no.2.

Mr.A.S.Shalgaonkar, APP, for State.

CORAM : PRAKASH D. NAIK AND
N.R.BORKAR, JJ.

DATE : 6th March 2024

PC :

1. Applicant challenges charge sheet and proceedings in R.C.C No.1130 of 2023 pending on the file of learned Judicial Magistrate First Class, Panvel, District Raigad.

2. The FIR was registered on 29th July 2023 with Kamothe Police Station for offences u/s.498-A, 504, 506 r/w 34 of Indian Penal Code. It was registered at the instance of Respondent no.2.

3. The case of the prosecution is that marriage between

Respondent no.2 and Roshank Ashok Shetty was performed on 24th November 2019. The complainant joined the matrimonial home. She was ill-treated by the family of her husband. On the day of marriage the accused created ruckus. There was demand of ornaments. The husband of complainant was talking to his close friend on the cell phone. The father-in-law of the complainant demanded Rs.10 lakh with the father of complainant. Pursuant to the registration of FIR, investigation was completed and charge sheet was filed. The FIR was registered against Roshank Ashok Shetty (husband), Geeta shetty (mother-in-law), Ashok Shetty (father-in-law) and Soni Shetty (Applicant). It was alleged that Applicant is the friend of complainant's husband.

4. Learned advocate for Applicant submitted that Applicant is not relative of complainant's husband. She cannot be prosecuted for the offence u/s.498-A of IPC. Applicant was allegedly the friend of complainant's husband. She has been falsely implicated in this case. No role has been assigned to the Applicant.

5. Learned APP and advocate for Respondent no.2 submitted that there is sufficient evidence against Applicant showing her involvement. She is friend of complainant's husband. Complainant's husband was in touch with the Applicant even on the day of marriage. The husband was continuously talking with Applicant. Applicant could be prosecuted for the offence u/s.504 and 506 of IPC. Accused no.1 was in relationship with Applicant. Applicant had provoked and insulted Respondent no.2. Applicant had hurled abuses and insulted against Respondent no.2. Respondent no.2 has also filed reply opposing the application. Reliance is placed on the decision of Hon'ble Supreme Court of India in the case of **Fiona**

Shrikhande Vs. State of Maharashtra and another (Criminal Appeal No.1231 of 2031, decided on 22nd August 2013).

6. The allegations against Applicant are vague. Applicant is not relative of complainant's husband. In the case of **U.Suvetha Vs.State by Inspector of Police and another** (2009)6-SCC-757, the Hon'ble Supreme Court has observed that a girl friend cannot be said to be a relative within the meaning of Section 498-A of IPC. Even to invoke Sections 504 and 506, there is no cogent evidence. On the basis of omnibus and vague allegations the Applicant cannot be prosecuted for the said offences. It would be abuse of process of law to prosecute the Applicant for the alleged offences.

ORDER

- (i) Criminal Application No.1455 of 2023 is allowed and disposed off;
- (ii) The proceedings in R.C.C No.1130 of 2023 pending on the file of learned Judicial Magistrate First Class, Panvel, District Raigad arising out of C.R No.211 of 2023 registered with Kamothe Police Station, Navi Mumbai, are quashed and set aside.

(N.R.BORKAR, J.)

(PRAKASH D. NAIK, J.)

MST