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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1071 OF 2024

Tejas Shashikant Vaishnav and Others

PETITIONERS

VERSUS

The State of Maharashtra and Another

RESPONDENTS

.....
Mr. K. N. Shermale, Advocate for the Petitioners
Mr. S. J. Salgare, APP for Respondent No.1 - State
Mr. J. S. Jain, Advocate for Respondent No.2
.....

[CORAM : NITIN B. SURYAWANSHI, &
SANDIPKUMAR C. MORE, J. J.]

DATE : 18th JUNE, 2025

ORDER :

1. This Petition, filed under Articles 226 and 227 of the Constitution of India, read with section 482 of the Criminal Procedure Code, seeks quashing of FIR bearing No. 0109 of 2024 dated 17th March, 2024 registered with Pachora Police Station, District – Jalgaon for the offence punishable under sections 498A, 323 and 504 of the Indian Penal Code, lodged by Respondent No.2.

2. Petitioner No.1 is the husband, petitioner No.2 is father in law, petitioner No.3 is mother in law and Petitioner No.4 is brother in law of the informant – Respondent No.2.

3. The second Respondent has lodged the FIR alleging that, her marriage was performed with Petitioner No.1 on 25th July, 2022 at Shirdi. Thereafter, she went to her matrimonial house for cohabitation with her husband in his house, where all the petitioners were residing together. She was in service at Pune and was doing up and down from Sangmner to Pune. Petitioners started harassing her on the ground that proper treatment was not given to them in the marriage and her parents have not given 5 tola gold chain to Petitioner No.1. When she expressed her inability to bring the gold chain, Petitioners used to harass her. Petitioner No.3 demanded that she should hand over her salary to her. Petitioners used to abuse her and Petitioners No.2 to 4 used to instigate Petitioner No.1 to beat her. On their instigation, Petitioner No.1 used to beat her with slaps and fists. Many times, no food was given to her and she was required to sleep empty stomach. When she disclosed these facts to her parents, they along with relatives came to Sangamner on 16th November, 2023. When her family members asked Petitioners about the harassment, they told that no proper treatment was given to them in the marriage and 5 tola gold chain is not given to Petitioner No.1 and she is not handing over her salary in house. Family members of Respondent No.2 were abused and drove away from the house. Petitioners demanded 5 told gold

chain from her and also put a condition that she will have to hand over the salary received by her to them.

4. Heard learned Advocate for the Petitioners, learned Advocate for Respondent No.2 and learned APP for Respondent No.1 – State.

5. After arguing for some time on merits, when this Court was not inclined to grant relief, learned Advocate for the Petitioners, on instructions seeks permission to withdraw the Petition to the extent of Petitioners No.1 and 3 (husband and mother in law of the second Respondent). Permission granted. Criminal Writ Petition, to the extent of Petitioners No.1 and 3 is dismissed as withdrawn.

6. It is necessary to mention here that on 16th November, 2023, sister of the second Respondent had lodged complaint, which was registered at NC No. 1530 of 2023 with Sangamner Police Station for offences punishable under section 504 and 506 of the Indian Penal Code, against the Petitioners. It is alleged in the said complaint that marriage of the second Respondent was performed with Petitioner No.1 one and half year back and she is being ill-treated and there are family disputes between Petitioners and the second Respondent. However, no complaint was given in that behalf. On 16th November, 2023, when the

complainant, along with her relatives went to matrimonial home of the second Respondent, Petitioners did not permit them to enter their house and threatened them. Perusal of this complaint also reveals that allegations as are made in the FIR in question are not made in this Complaint.

7. Law, on the point of quashing of complaint under section 498-A of the Indian Penal Code, against family members / relatives of wife is well settled. While laying down this law, the Apex Court has made certain pertinent observations in **“Preeti Gupta V/s State of Jharkhand”**¹. The Apex Court has observed as follows :

“30. It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the courts in our country including this Court are flooded with matrimonial cases. This clearly demonstrates discontent and unrest in the family life of a large number of people of the society.

31. The courts are receiving a large number of cases emanating from Section 498-A of the Penal Code, 1860 which reads as under:

498-A. 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.

1 (2010) 7 SCC 667

Explanation.- For the purposes of this section, 'cruelty' means:

(a) any willful 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.

32. It is a matter of common experience that most of these complaints Under Section 498-A Indian Penal Code are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.

33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint Under Section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to

ensure that social fiber, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, Accused and his close relations.

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent To find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection.

36. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful”.

8. Bare perusal of the FIR and the charge sheet reveals that,

allegations levelled against father in law and brother in law are vague, general and sweeping, without specifying any instance of criminal conduct. It is required to be noted here that, in the FIR, no specific date or time of alleged offence committed by them is disclosed. It appears that they are implicated in the present crime out of personal grudge and only with a view to pressurize husband and with ulterior motive of wrecking vengeance. Taking into consideration the allegations made in the FIR and the material collected during the investigation and the attending circumstances of the case emerging from the record, we are of the considered view that no ingredient of offence punishable under section 498-A of the Indian Penal Code is made out against father in law and brother in law. It appears from the record that the second Respondent was staying at Pune, as she was in service there. Record further indicates that Petitioner No.4, brother in law of the second Respondent is in service at Pune, since the year 2018 onwards and he is residing at different place. Therefore, there was no occasion for him to ill-treat the second Respondent.

9. Learned Advocate for the Petitioners has rightly placed reliance on the judgment in ***“Achin Gupta V/s State of Haryana and Another” 2024 (6) SCR 129.***

10. The ratio in **“Achin Gupta”** (*supra*), supports the case of the Petitioners No.2 and 4.

11. For the aforestated reasons, the petition deserves to be allowed. Hence, the following order:

ORDER

A. Criminal Writ Petition is allowed in terms of prayer clause “B-1”. Proceedings of Regular Criminal Case No. 782 of 2024 pending before Judicial Magistrate First Class, Pachora to the extent of Petitioner No.2 (Shashikant Iswardas Vaishnav) and Petitioner No.4 (Shreyas Shashikant Vaishnav) are quashed and set aside.

[SANDIPKUMAR C. MORE]
JUDGE

[NITIN B. SURYAWANSHI]
JUDGE