

MANDIRA MILIND
SALGAONKAR

The F.I.R., registered on 07/12/2022, invoke Sections 498-A, 406, 328, 323 read with Section 34 of the Indian Penal Code and Section 4 of the Muslim Women (Protection of Rights on Divorce) Act, 2019.

2. We have heard the learned counsel for the Petitioners alongwith the counsel appearing for Respondent No.2 as well as the learned Additional Public Prosecutor for the State.

With their able assistance, we have perused the charge-sheet and the material collated therein pursuant to the subject C.R. being investigated.

3. By consent of the parties, we deem appropriate to issue 'Rule' and we have taken up the Petition for hearing at the stage of admission.

4. The complaint filed by Respondent No.2 on 07/12/2022 refer to the marriage of the Complainant dated 11/01/2014 with one Niyaz Khan. It is alleged that at the time when the marriage was fixed, the Petitioners, the close relations of her husband, were present and a demand of Rs.10,00,000/- and 100 tolas of gold was put up. Considering her welfare, her father accepted the condition and complied therewith.

According to the Complainant, in her matrimonial house, her in-laws alongwith two brother-in-laws with their wives, were staying in the joint family and her sister-in-law, Nilofar Mohammad Anavar Khan was residing separately, but used to frequently visit their house.

The particular allegation in the complaint against her sister-in-laws is to the effect that they used to complain her mother-in-law that she do not perform any household work and, therefore, her mother-in-law used to always raise a quibble about the same. They used to take jibes at her that she was not given proper training by her parents.

Thereafter, the complaint make reference to her abortion on two occasions i.e. in the year 2015 and 2016 and refer to a child being born to her in the year 2017. The complaint further proceed to state that since the newborn was suffering from some ailment, which warranted immediate medical attention, her parents spent a sum of Rs.Four to Five lakhs on his treatment.

5. Rest of the part of the complaint, in detail, speak of her relationship with her husband, as accusations are levelled against him that he was not paying attention either to the child or her and was ignoring her.

The disturbed relationship of the husband and wife is specifically set out in the complaint. A second child was born out of the marriage on 07/04/2021 and once again, the Complainant make a grievance about the behaviour of her husband, to the extent that she alleges that because of some medicine, which was given by her husband, she suffered from an ailment and the doctor asked her to stop the medicine. While she was undergoing the suffering, her husband has never bothered to take care of her is the specific allegations.

6. In the spread-over of eight years of marriage, the F.I.R. except making vague allegations against the Petitioners, has levelled accusations against the husband, who is not a party to the present proceedings.

Reading of the complaint and the material collected, which include the statement of the Complainant as well as other relations, would reveal that allegations are vague in

nature and none of them are sufficient to attract the ingredients of Section 498-A of IPC against the Petitioners, as the F.I.R. has invoked Sections 498-A, 406, 328, 323 read with Section 34 of IPC. It is not the case of the Complainant that they ever caused any hurt to her or they cheated her at any point of time, by detaining any ornaments, which is an argument advanced today by the counsel for Respondent No.2. But, since this was not so stated in the complaint, there is no investigation in that regard.

7. In the wake of the aforesaid, since we find that the ingredients of the offence which are invoked in the subject F.I.R. under which the charge-sheet is filed, are not made out against the Petitioners, continuation of the proceedings against them would amount to abuse of the process of law and we are, therefore, convinced to exercise our inherent jurisdiction to prevent such abuse of the process.

Merely because there are some vague allegations, in no way, they amounts to cruelty at the instance of the Petitioners and that too, the cruelty as defined by the Explanation appended to Section 498-A of IPC

8. In the light of the aforesaid, the Petition is made absolute by quashing and setting aside F.I.R.No.625 of 2022 registered with Vinoba Bhave Nagar Police Station alongwith R.C.C.No.260/PW/2024 pending on the file of JMFC, 59th Court, Kurla, Mumbai.

(SHYAM C. CHANDAK, J.)

(BHARATI DANGRE, J.)