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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 3026 OF 2024

**MRS. SWEETI JAYESH BHAMARE & ANR. ..PETITIONERS
VS.
THE STATE OF MAHARASHTRA & ANR...RESPONDENTS**

Mr. Jitendralal Gorane a/w. Ms. Vidya Gorane, Mr. Abhijit Devkhile, Advocate for the Petitioners.
Ms. P. N. Dabholkar, APP for Respondent No.1- State.
Mr. B. K. Raje, Advocate for Respondent No.2.

**CORAM : RAVINDRA V. GHUGE &
RAJESH S. PATIL, JJ.**

DATE : 14th JANUARY 2025.

JUDGMENT (PER - RAJESH S.PATIL, J.) :-

1. Rule. Rule made returnable forthwith. With the consent of the learned counsel appearing for the parties, the Petition is taken up for hearing and disposal.

2. This Writ Petition is filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, by the Petitioners (original accused Nos.4 and 5) seeking quashing of First Information Report (FIR) No. 246 of 2023 dated 2nd September, 2023, registered at Kalvan Police Station, Nashik Rural, at the behest of Respondent No.2, for the offence

punishable under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.

3. It is the case of the prosecution that Respondent No.2 (Complainant) and the brother of Petitioner No.1, married as per Hindu Vedic rites and rituals at Nashik on 12th August, 2021. The said marriage was an arranged marriage. It was a second marriage of both Respondent No.2 and the brother of Petitioner No.1. From the said wedlock daughter named Lakshmi is born and at present she is aged 9 months. After the marriage, Respondent No.2 (Complainant) started residing in her matrimonial home at Nashik. It is alleged in the complaint that behaviour of all the accused persons who are the husband and in-laws was not good towards Respondent No.2, since beginning. The husband of Respondent No.2 used to drink alcohol regularly and used to physically torture the Complainant on many occasions. It is further alleged that in-laws of the Complainant used to support the husband of the Complainant and never took any stand against the said torture and abuse. Even the basic needs of the Complainant were not provided. It is further alleged that the accused used to demand Rs.10 lakhs as dowry for purchasing a luxury car and it was alleged that if the said demands were not met, they would

not allow the Complainant to enter her matrimonial home. On being compelled, the Complainant's father gave an amount of Rs.8,50,000/- to the husband of the Complainant. Even then the Complainant's husband refused to cohabit with her. It is further alleged that when the Complainant and her parents with her brother visited her matrimonial home and requested the in-laws to allow the Complainant to stay in her matrimonial home, the husband of the Complainant with his family members abused and insulted the father of the Complainant and refused to take her back to matrimonial home.

4. It has been vehemently submitted on behalf of the Petitioners that Petitioner No.1 is the sister-in-law of Respondent No.2/Complainant and Petitioner No.2 is the husband of Petitioner No.1. The Petitioners are arrayed as Accused Nos.4 and 5 respectively in the FIR and in the charge-sheet. So also, the Petitioners are arrayed as the Respondents in the Domestic Violence complaint. It is the case of the Petitioners in the Petition that there are no specific allegations in the FIR against the Petitioners, which will attract the provisions of the Sections mentioned in the FIR. On a bare reading of the complaint it shows that the only allegation

against the Petitioners is that they are supporting the husband who used to physically and mentally torture the Complainant, whenever the Petitioners used to visit the matrimonial home of the Complainant. The Petitioners are working and residing at Pune, since their marriage and they visited the parental home of Petitioner No.1 occasionally. Therefore, there is no occasion when the Petitioners would ever have tortured the Complainant. The allegations in the FIR are mostly against the husband of Respondent No.2 and mother-in-law. No specific date or year of the incident is mentioned in the complaint. Similarly, in the Domestic Violence complaint, there are no specific allegations. Further, the Petitioners are residing at their home in Pune city while Respondent No.2 used to stay in her matrimonial home at Nashik. No *prima facie* case is made out to prosecute the Petitioners even the complaint is considered on face of it as true and correct. The FIR has been lodged against the Petitioners with malafide intention to harass the Petitioners. Hence, the FIR and the R.C.C. case require to be quashed and set aside as against the Petitioners.

5. *Per contra*, the learned A.P.P. strongly opposed the Petition and submitted that the perusal of the entire FIR and charge-

sheet would show that there is also ample evidence against the Petitioners to convict them under the offence under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code. It is further submitted that once charge-sheet is filed, this Court should not entertain the present Writ Petition.

6. The learned Advocate appearing for Respondent No.2 (Complainant) vehemently opposed this Writ Petition. He submitted that the marriage between Respondent No.2 and brother of Petitioner No.1 took place during the Covid-19 period. Petitioner No.1 had delivered a baby girl at her parental home where Petitioner No.2 being the husband of Petitioner No.1 was also residing. Both the Petitioners while residing at the matrimonial home of Respondent No.2 were working from home. At the same time, even Respondent No.2 was residing in the said home being her matrimonial house. During the marriage, the parents of Respondent No.2 had given 15 tolas of gold ornaments. The issue about whether the domestic violence cases would be covered by civil or criminal laws, is pending before the Larger Bench and the same cannot be added/included in the present Petition filed in the criminal jurisdiction. The mother-in-law of Respondent No.2 along with

Petitioner No.1 in collusion with each other used to torture Respondent No.2 and used to instigate the husband of Respondent No.2 to physically abuse Respondent No.2 and used to instigate the husband of Respondent No.2, to seek more monies from the parents of Respondent No.2. The summons in both the proceedings were served on the Petitioners at the matrimonial home of Respondent No.2 at Nashik. The statements in the FIR are sufficient against the Petitioners, to attract the provisions of Section 498-A of the Indian Penal Code. He further submitted that the Petitioners should be directed to face trial and the present Petition which is devoid of merits, the same be dismissed with costs.

7. We have heard learned Advocates appearing for the parties and the learned A.P.P.

8. The FIR has been registered on the complaint filed by Respondent No.2 under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code against the accused persons including the Petitioners who are arrayed as Accused Nos.4 and 5.

9. The alleged statements made against the present

Petitioners in the complaint reads as under :

लग्नानंतर रितीरिवाजानुसार मी माझे सासरी नाशिक येथे नांदण्यासाठी गेली असता पती जितेंद्र रमेश सावळा, सासरे रमेश भावराव सावळा, सासु शोभा रमेश सावळा, नणंद स्विटी जयेश भामरे, ननंदए जयेश कौतीक भामरे, मावस सासु अरुणा अभिमन निकम, माझे नव-याची आत्याबहीण बायजा निळकंठ पगार, मेव्हाणा निळकंठ पगार, मित्र योगेश मधुकर डिकले अशाची सुरवाती पासून माझ्याशी वागणुक चांगली नव्हती आमची विवाह मराठा व वधु सुचक संस्था मार्फत एकमेकांचे पसंतीने झाले असुन त्यावेळी लग्नाची बैठक होती त्यावेळी माझे सासरे लोकांनी मला व माझे आई वडीलांना सांगितले होते की माझे पती जितेंद्र यांना कसले व्यसन नसुन ते निरव्यसनी आहेत तसेत ते युपीएससी, एमपीएससी असे स्पर्धा परिक्षाचे क्लासेस घेत असुन हेल्थ इन्शुरन्सचे कामे करतात व त्यातुन त्यांना चांगले उत्पन्न मिळते असे बोलुन आम्हाला विश्वासात घेवुन लग्न लावलेले आहे.

माझे सासु व नणद यांना मी सुन म्हणून पसंत नसल्यामुळे त्या नेहमी माझ्या तिरस्कार करीत असे व मला अपमानास्पद वागणुक देवुन माझा छळ करीत असे माझी नणद नणदाई हे माझे सासु सासरे यांचे लाडके असल्यामुळे ते जास्त वेळ माझे सासरी राहत असे व जेव्हा ही राहत असे तेव्हा माझी सासु व नणद हे संगणमत करुन माझा छळ करत असे तसेच माझ्या विरुध्द माझ्या पतीची कानभरणी करुन मला मारहाण करण्यास व माहेरुन रोख रक्कम आणणेकामी भडकावीत असे तसेच माझी मावस सासु अरुणा अभिमन निकम हिचे देखील आमचे वैवाहीक आयुष्यात आवाजवी हस्तक्षेपामुळे तसेच ती जुन्या विचाराची असल्यामुळे ती मला ड्रेस घालु देण्यास मनाई करीत असे व याबाबतीत माझे सासु सासरे व पतीची कानभरणी करीत असे त्यामुळे माझे पती माझा अधिक छळ करीत असे.

10. A bare reading of the complaint shows that there are mere statements made against the Petitioners. Admittedly, Petitioner No.1 is the married sister of husband of Respondent No.2. Petitioner No.2 is the husband of Petitioner No.1, and their matrimonial home is in

Pune City. While the matrimonial home of Respondent No.2 is in Nashik City. Respondent No.2 (Complainant) has not placed on record any kind of document to show that Petitioner No.1/sister-in-law, though married, is residing at her parental house, along with her husband. The allegations made in the complaint are more specific against the husband and the mother-in-law of Respondent No.2. The present Petitioners are the sister-in-law of Respondent No.2 and the husband of sister-in-law.

11. In our view, the fact narrated in the complaint and the FIR, does not *prima facie* disclose the commission of an offence by the Petitioners. The allegations against the Petitioners are insignificant, on the basis of which no prudent person could reach to a conclusion that there are sufficient grounds to proceed against the Petitioners/Accused Nos. 4 and 5. The Hon'ble Supreme Court in the decision of *Abhishek vs. State of Madhya Pradesh, 2023 SCC OnLine SC 1083*, has held in paragraph Nos. 12, 14 and 15 has held as under:-

“12. The contours of the power to quash criminal proceedings under Section 482 Cr. P.C. are well defined. In V. Ravi Kumar v. State represented by Inspector of Police, District Crime Branch, Salem, Tamil Nadu [(2019) 14 SCC 568], this Court affirmed that where an accused seeks

quashing of the FIR, invoking the inherent jurisdiction of the High Court, it is wholly impermissible for the High Court to enter into the factual arena to adjudge the correctness of the allegations in the complaint. In Neeharika Infrastructure (P). Ltd. v. State of Maharashtra [Criminal Appeal No. 330 of 2021, decided on 13.04.2021], a 3- Judge Bench of this Court elaborately considered the scope and extent of the power under Section 482 Cr. P.C. It was observed that the power of quashing should be exercised sparingly, with circumspection and in the rarest of rare cases, such standard not being confused with the norm formulated in the context of the death penalty. It was further observed that while examining the FIR/complaint, quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made therein, but if the Court thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, and more particularly, the parameters laid down by this Court in R.P. Kapur v. State of Punjab (AIR 1960 SC 866) and State of Haryana v. Bhajan Lal [(1992) Supp (1) SCC 335], the Court would have jurisdiction to quash the FIR/complaint.

14. In Preeti Gupta v. State of Jharkhand [(2010) 7 SCC 667], this Court noted that the tendency to implicate the husband and all his immediate relations is also not uncommon in complaints filed under Section 498A IPC. It was observed that 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, as allegations of harassment by husband's close relations, who were living in different cities and never visited or rarely visited the place where the complainant resided, would add an entirely different complexion and such allegations would have to be scrutinised with great care and circumspection.

15. Earlier, in Neelu Chopra v. Bharti [(2009) 10 SCC 184], this Court observed that the mere mention of statutory provisions and the language thereof, for lodging a complaint, is not the 'be all and end all' of the matter, as what is required to be brought to the notice of the Court is the particulars of the offence committed by each and every accused and the role played by each and every accused in the commission of that offence. These observations were made in the context of a

matrimonial dispute involving Section 498A IPC.”

(Emphasis supplied)

12. In *Abhishek* (supra), the application under Section 482 of the Code of Criminal Procedure was filed by the in-laws of the Complainant. Identically in the present proceedings the Petition is filed by the sister-in-law of the Complainant, along with her husband. The ratio laid down in *Abhishek* (supra) will squarely apply to the present proceedings. In our view, the FIR does not disclose the commission of any offence, and there is no material to substantiate the allegations made therein. As per the settled principles of law laid down by the Hon’ble Supreme Court in *State of Haryana v. Bhajan Lal, AIR 1992 SC 604*, an FIR can be quashed if the allegations, even if taken at their face value, do not constitute any offence. The contents of the FIR, read in entirety, fail to meet the basic ingredients of the offences alleged. Therefore, the continuation of the criminal proceedings against the petitioners will be abuse of the process of law and warrants interference by this Court under Section 482 of the Code of Criminal Procedure, 1973 and the wide powers of this Court under Article 226 of the Constitution of India.

13. We find that there is no case in the FIR lodged and the charge-sheet filed to that effect as against the Petitioners/Accused Nos.4 and 5 for the offence punishable under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.

14. Hence, **the present Writ Petition is allowed** in terms of prayer Clause (1b) of the Writ Petition, which reads as under:-

(1b) By issuing appropriate writ/order/direction, this Hon'ble Court be pleased to quash the proceedings bearing R.C.C. No. 84/2024, pending before the Ld. Civil Judge Junior Division & JMFC Court, Nashik for offences punishable under section 498-A, 323, 504, 506 R/w. 34 of IPC against the present Petitioners.

(RAJESH S. PATIL, J.)

(RAVINDRA V. GHUGE, J.)