

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

Writ Petition No.4063 of 2024

Yogesh Madhukar Dhikale ... Petitioner
V/s.
State of Maharashtra and anr. ... Respondents.

Mr. Gaurav Ugale for the Petitioner.

Mr. S.V.Gavand, APP for the State.

Mr. B.K. Raje a/w. Mrunalini Dalvi for the Respondent No.2.

**CORAM : SARANG V. KOTWAL
& S.M. MODAK, JJ.**

DATE : 1st April 2025.

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P.C. :

Leave to amend to correct the prayer clause is granted.
Amendment be carried out forthwith.

2. Heard learned counsel for the parties. By consent of the parties matter is decided finally at this stage.

3. Hence, Rule. Rule is made returnable forthwith.

4. The Petition is filed for quashing of the FIR registered vide C.R.No.246/2023 dated 2nd September 2023 at Kalwan Taluka Police Station, Nashik and consequent Criminal Case bearing No.84/2024 before learned JMFC, Kalwan under Sections 498-A,

323, 504, 506 and 34 of the Indian Penal Code.

5. The FIR is lodged by the Respondent No.2. She has stated that she got married with her husband Jitendra on 12th August 2021. They have a daughter from that marriage. It was a second marriage for both of them. The FIR thereafter describes that she started residing in her matrimonial house with her husband, father-in-law, mother-in-law, sister-in-law, her husband and other relatives. The FIR mentions that her husband was addicted to liquor, he used to assault her. The other relatives of the husband used to ill treat and harass her. They used to instigate the husband and he used to harass her more. The husband used to suspect her character. In her pregnancy also she was not looked after properly. On 27th November 2022 she was driven out of her matrimonial house. On 28th November 2022 the husband came to her parents' house and demanded Rs.10 lacs for purchasing a BMW car. The informants' parents took loan in the name of her brother to the tune of Rs.8,50,000/- and transferred it in her account. She in turn transferred the amount in her husband's account. There are allegations that on 13th April 2023 the Petitioner who was allegedly a friend of the husband permitted his account to be used to return that amount to the informant's family. The husband continued making demand of money frequently. Basically, on these allegations the FIR is lodged.

6. There is one vague allegation against the Petitioner that at the

time of counseling, the Petitioner was present and he told the informant if Rs.5 lacs was paid to him, he would settle the matter, otherwise, the informant would have to come to Court. On these allegations, the FIR is lodged. Thus, in short the allegations are that at the time of counseling the Petitioner had made some demand. The other allegation is that some amount was returned to the informant's family by the Petitioner. However, that can hardly be termed as an offence.

7. Even the learned Counsel for the Respondent No.2 concedes that the Petitioner being friend of the husband is not a relative and, therefore, the ingredients of Section 498-A of Indian Penal Code are not made out against him. The learned Counsel for the Respondent No.2, on the other hand, tried to submit that the Petitioner was not a passive member and had played active part. Therefore, the proceedings may not be quashed.

8. Learned Counsel for the Petitioner submitted that, the charges are only under Section 498-A, 323, 504, 506 read with Section 34 of IPC. All the allegations are directed toward the husband and his family. Only some vague allegation is made against the Petitioner about demand of money. It is not supported by any other material or any other evidence including anybody from the office of the Counseling Centre at Malegaon. None of the ingredients of any of the offences applied in this case is made out against the present Petitioner. Therefore, continuation of proceedings against him would

be an abuse of process of law.

9. We have considered these submissions and we have perused the charge-sheet. In the entire charge-sheet there is no material against the present Petitioner. There are only vague allegations against him. It is alleged that some amount was transferred from the Petitioner's account to the informant's family's account. That can hardly be described as an offence against the Petitioner. He has not taken any money from informant's family. The other allegations regarding some incident at Counseling Centre at Malegaon is unsupported by any other material in the charge-sheet. In fact, that counseling was between the husband and wife. No third person was involved. Therefore, the Petitioner had nothing to do with the counseling and the allegations are quite vague. In this background, continuation of criminal prosecution against him would be an abuse of process of law and it is required to be quashed and set aside. Hence, the following order:

ORDER

- (i) The Writ Petition is allowed.
- (ii) The FIR registered vide C.R.No.246/2023 dated 2nd September 2023 at Kalwan Police Station, Dist. Nashik under Sections 498-A, 323, 504, 506 and 34 of the Indian Penal Code and consequent proceedings in Criminal Case No.84/2024 pending before the learned JMFC, Kalwan are hereby quashed and set aside qua the Petitioner only.
- (iii) This order is restricted to the present petitioner.

10. The Writ Petition stands disposed of. The Rule is made absolute accordingly.

(S.M. MODAK, J.)

(SARANG V. KOTWAL, J)