



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION (ST) NO.9525 OF 2024

Manisha Kalpesh Rukhana Petitioner

V/s.

The State of Maharashtra & Anr. Respondents

Mr.Karansingh Rajput a/w Mr.Fauzan, for the Petitioner.

Ms.Ranjana D. Humane, APP, for Respondent No.1-State.

Mr.Karma Vivan a/w Mr.Akshat Tiwari i/b Vashi & Vashi, for
Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 09th OCTOBER 2024

P.C:-

1. By this Writ petition, the Petitioner has challenged the order dated 28th February 2024 passed by the Additional Metropolitan Magistrate, 40th Court, Girgaon, Mumbai, rejecting discharge Application filed by the Petitioner in charge-sheet No.100/2018 having case No.298/PW/2018.

2. It is contention of the learned counsel for the Petitioner that, the complaint was filed by Respondent No.2 against the Petitioner and her husband under Sections 341, 354,

and 509 read with Section 34 of the Indian Penal Code, 1860 ('IPC' for short).

3. The allegations against the Petitioner and her husband are that, when Petitioner and her husband demanded salary from the informant the Petitioner and her husband outrage the modesty of the Respondent No.2.

3. The learned counsel further submitted that, the entire evidence is captured in CCTV footage. There was altercation between Petitioner and her husband i.e. co-accused and Respondent No.2-informant, to accentuate the incident. The Respondent No.2 filed false complaint against the Petitioner and her husband. The Petitioner had filed Application for discharge as there is no material on record to show the involvement of the Petitioner in the said crime. But the said Application has been rejected by the learned Magistrate without considering the documents produced on record.

4. The learned counsel for the Petitioner further submitted that, this Court (Coram : Amit Borkar, J.) has allowed the Writ Petition filed by the husband of the Petitioner and he

has been discharged from the offences levelled against him. The learned counsel further submitted that, the matter is settled between the parties and Respondent No.2 has no objection to allow this Petition. The Consent Terms are settled between the parties.

5. The learned APP submitted that, there is *prima facie* case against the Petitioner. The contents of the FIR shows involvement in the crime. The learned Magistrate has passed well reasoned order, no interference is required in it.

6. The learned counsel for Respondent No.2 submitted that, matter is settled between Petitioner and Respondent No.2 and the Petitioner has tendered apology to Respondent No.2. The learned counsel for Respondent No.2 tendered Consent Terms, it is taken on record and marked 'Article-X' for identification.

7. I have heard all learned counsel. Perused impugned order passed by the learned Magistrate.

8. The main allegations in the FIR are against husband of the Petitioner, he has been discharged by this Court.

Moreover, matter has settled between the parties. Considering these facts, I pass following order.

ORDER

- (i) The Writ Petition is allowed.
- (ii) The impugned order dated dated 28th February 2024 passed by the Additional Metropolitan Magistrate, 48th Court, Girgaon, Mumbai, is quashed and set aside.
- (iii) The Petitioner is discharged from case No.298/PW/2018.
- (iv) The Petitioner shall pay cost of Rs.15,000/- with Central Police Welfare Fund, with AXIS Bank, Account No.914010029005759, IFSC Code-UTI B0000060
- (v) All pending Applications are disposed of.

(SHIVKUMAR DIGE, J.)