



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1995 OF 2023

Sunil Madhav Bhalerao & Anr.

.....Petitioners

Vs.

The State of Maharashtra & Anr.

.....Respondents

Mr. Sarwadnya Kadtane, for Petitioners.

Mr. Ashish I. Satpute, APP, for Respondent No.1-State.

Mr. D.M. Thosar, i/b Thosar & Advocates, for Respondent No.2.

CORAM : SARANG V. KOTWAL AND

DR. NEELA GOKHALE, JJ.

DATE : 24th OCTOBER 2024.

P.C.:-

1) This Writ Petition is filed for quashing of the F.I.R. bearing C.R.No. 9 of 2023 lodged at Rabale Police Station, Navi Mumbai on 4th January 2023 under Sections 323, 498-A, 504 and 506 read with 34 of the Indian Penal Code.

2) The F.I.R. is lodged by the Respondent No.2 herein. The Petitioners are the younger brothers of her husband Gopal @ Anil. It is stated in her F.I.R. that she was married with Gopal on 21st April 2017. Her father had given her gold ornaments weighing 2.5 tola and Rs.2,00,000/- by way of cash to her husband's father. On further

demands he has given 1.5 told of gold. He also gave household articles in the marriage. After the marriage, she started residing with her in-laws at village Ligdal, Taluka Amadpur, Post Telgaon, District Latur. The F.I.R. mentions that her mother-in-law did not allow her to use any article given by her father. Her husband had told her that she had no right to use those articles. She was not allowed to use Air Cooler. It is alleged that her mother-in-law did not give her sufficient food and used to make her to do all household work. It is further mentioned that Gopal's parents and both the Petitioners as well as Gopal himself suggested that the Informant and Gopal should stay at Udgir, Latur. Accordingly, she and Gopal started residing at Udgir, Latur. It is further alleged that Gopal used to ill-treat her and used to beat her. He was addicted to different vices. She became pregnant, but even then her mother-in-law and husband Gopal assaulted her. There is a general statement that because of the harassment of the family members of the husband, she had to undergo cesarean. Even at that time, Gopal did not spend any money. The F.I.R. thereafter mentions different instances particularly in respect of Gopal and his mother.

3) There are only two references of both the Petitioners. At

one instance, it is alleged that Gopal and the Petitioner No.2 Vikram had gone to their house at Udgir and had broken the iron gate and abused to her and her mother. She was also beaten up by them and then they had left. The other allegations are that her two children were sick, but then Gopal did not look after them. She called the Petitioner No.1 to inform him about this. At that time, he told her that he had no concern with informant and her children. These are the only two allegations against both the Petitioners. Otherwise the entire F.I.R. is about allegations against her husband including the allegations of his extramarital affair.

4) We have heard Mr. Kadtane, learned counsel for the Petitioners, Mr. Satpute, learned APP for Respondent No.1-State and Mr. Thosar, learned counsel for the Respondent No.2. With consent of the parties, the matter is decided finally at this stage.

5) Learned counsel for the Petitioners submitted that from the narration in the F.I.R. it is clear that the allegations against the Petitioners did not attract the ingredients of Section 498-A and other offences under which the F.I.R. is lodged. Learned counsel for the Respondent No.2 on the other hand relied on the F.I.R. which contains the specific instances attracting the ingredients of Section 498-A of the

Indian Penal Code and the Petitioners along with his husband and mother-in-law harassed and ill-treated her.

6) Learned APP produced investigation papers before us. Apart from the F.I.R., there is statement of the Informant's father, wherein he has mentioned the instances in which that particulars that gate was broken. However allegations against the Petitioners were only two references of Petitioner No.2 Vikram was that he was accompanying Gopal. It was alleged that for some time Informant's son was taken away and he was brought back within short time. Apart from that, there is absolutely no material against the present Petitioners.

7) We have considered the F.I.R. and the statement of Informant's father. As we have observed, there is hardly any material against these two Petitioners. There are only general and omnibus allegations. There are no specific instances against the present Petitioners which were attracting the provisions of Section 498-A of the Indian Penal Code. In fact, the F.I.R. mentions that at the instance of the Informant's in-laws, she and her husband Gopal had started residing separately at Udgir. It clearly mentions that the Petitioners were not even residing with the Informant and her husband Gopal.

The allegations against the present Petitioners are vague.

8) Considering this discussion, the Petitioners have made out a case for quashing of the F.I.R. and the further proceedings. Hence, the following order:

ORDER

- (i) The F.I.R. bearing C.R.No. 9 of 2023 lodged at Rabale Police Station, Navi Mumbai on 4th January 2023 is quashed and set aside *qua* the present Petitioners only.
- (ii) The Petition is accordingly disposed of.

(DR. NEELA GOKHALE, J.)

(SARANG V. KOTWAL, J.)