
(2015) 03 BOM CK 0061

In the Bombay High Court

Case No : Criminal Writ Petition No. 1114 of 2014

Rahul and Others

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 17-03-2015

Acts Referred:

Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 323, 34, 498-A, 504, 506

Citation : (2015) ALLMR(Cri) 2710 : (2015) 3 DMC 799

Hon'ble Judges : I.K. Jain, J.;T.V. Nalawade, J.

Bench : Division Bench

Advocate : P.B. Patil, for the Appellant; B.L. Dhas, APP, Advocates for the Respondent

Final Decision : Partly Allowed

Judgement

1. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal. The learned APP is also heard.

2. The petition is filed under Article 226 of Constitution of India and also under section 482 of Criminal Procedure Code for relief of quashing of criminal case bearing R.T.C. No. 141/2014, which is pending in the Court of Judicial Magistrate, First Class, Kopergaon. The case is filed for offences punishable under sections 498-A, 323, 504, 506 r/w. 34 of Indian Penal Code. After filing of the present proceeding, the petitioner No. 1 -Rahul Punjaram Nikam, the husband of the complainant, withdrew his proceeding and to that extent, the proceeding is 3 already disposed of as withdrawn. During arguments, the learned counsel for petitioner Nos. 2 to 4 submitted on instruction that he wants to withdraw their proceeding and so, to that extent their proceeding is disposed of as withdrawn.

3. Original complainant -Jaishree was given in marriage to Rahul on 20.5.2013. After the marriage, she started cohabiting with Rahul in his house from Narayanwadi, Chalisgaon where the parents of the husband and unmarried sister

of husband (petitioner Nos. 2 to 4) were living. It is the case of complainant that the husband used to visit the native place on every Friday in the night time and he used to return to Mumbai on Sunday night and he was in service in Mumbai. It is the case of complainant that at the time of Rakhi Pournima festival, the married sisters of husband viz. petitioner Nos. 5 to 7 had visited the house of her husband and they had stayed there for about one and half month. It is her case that petitioner No. 8 -Ramabai is aunt on paternal side of her husband and though she is resident of other place, she used to visit the house of her husband.

4. It is the case of complainant that she was treated well for first two months after the marriage, but after that the husband and his relatives started asking her to bring Rs. 8 lakh for seeking employment for her and to bring Rs. 4 lakh for purchasing a car. It is her case that after the marriage, she had applied in a school for employment and she was interviewed also and it was told to her that there was need of such money. It is her case that she told the husband and his relatives that her father had already spent huge amount for her marriage and he was not in a position to give such amount. It is her case that the husband and his relatives started giving ill-treatment to her. It is her case that they were giving abuses to her and the sisters of husband were asking him to reach her to the parents house as they were not fulfilling their demand of money. It is her case that the husband started saying that he had not approved her for marriage and only due to pressure of his parents, he had married with complainant and he would never take her to Mumbai where he was employed. It is her case that the mother in law used to say that the complainant knew the black magic and so, she was telling her husband that she should be driven out of the matrimonial house. It is her case that the husband used to give beating to her by taking suspicion about her character.

5. It is the case of complainant that when the married sisters of the husband viz. petitioner Nos. 5 to 7, visited their house, she told them about the ill-treatment, but they did not help her and they said that it was necessary for her to live there and tolerate the ill-treatment and if she had any complaint, they would ask her husband to drive her out of the matrimonial house. It is her case that on phone, they were asking the husband and his mother to give ill-treatment to her. Some allegations are made against the cousin on maternal side of husband also.

6. The complainant was reached to her parents house on 13.10.2013 and after that, she was not taken back to matrimonial house even after making of many attempts. She gave report to police on 29.3.2014 and the crime came to be registered for aforesaid offences.

7. The record is produced to show that original complainant has filed maintenance proceeding against the husband and similar contentions are made in the said proceeding. The maintenance proceeding came to be filed on 13.3.2014. During investigation, the statements of parents of complainant came to be recorded. Their statements show that they have made vague allegations

against married sisters of the husband and the allegations made by them are on the basis of 6 so called disclosures made by the complainant. There are statements of brother and other relatives of complainant on parent's side also. No specific allegations are made as against petitioner Nos. 5 to 8 by the relatives of complainant and all of their statements show that they heard about the ill-treatment only from the complainant. There is the record of notice sent by the wife dated 3.2.2014 and reply given by the husband on 10.2.2014. The aforesaid allegations are mentioned against the husband and his relatives in notice sent by the complainant and in reply, those allegations are denied. After this reply, the wife had sent counter-reply on 3.3.2014 and then the report came to be given on 29.3.2014.

8. The record shows that petitioner Nos. 5 to 8 are residents of different place like Mumbai, Sangli, Borade District Jalgaon and Chalisgaon District Jalgaon. Even when the petitioner No. 5 is resident of Chalisgaon, there is allegation against her that she had visited the house of her parents for celebration of Rakhi Pournima festival and only on that occasion she had talk with the complainant. There is allegation against married sisters that they were instigating husband to give ill-treatment . But, it can be said that there is no contention that the complainant has personal knowledge about it as so called 7 instigation was given on phone as per the case of complainant. There was no reason whatsoever for petitioner No. 8 to get involved in the affairs of the family of petitioner No. 1.

9. In view of the wording of provision of section 498-A of I.P.C., the case can be filed under this section against relatives of husband. Tendency is developed to rope in almost all the relatives of the husband to give harassment to them. Many times, such relatives even do not get opportunity to talk with the complainant and the complainant do not get the opportunity to complain to them about the conduct of her husband. Such allegations are made against these relatives to see that the husband and his relatives are pressurized. When there are such vague allegations, nothing can be achieved even after the trial for such offences against such relatives and the proceeding against them is generally meaningless. In routine manner, the cognizance of the matter is taken by the Criminal Court when such chargeheet is filed against the relatives of husband.

10. For the petitioners, reliance was placed on the case reported as Chandralekha and Others Vs. State of Rajasthan and Another, . In that case, when the allegations as against the in-laws were extremely general in nature and no specific role was attributed to them and the complaint was given by the wife after about six years of the starting of separate residence, the Apex Court held that the provisions of section 482 of Cr.P.C. can be used. This Court has already observed that there is tendency developed to rope in the relatives of husband in such case. In the present case also, when the complainant started living separate on 13.10.2013, she gave report to police on 29.3.2014. In view of these circumstances, this Court holds that it is a fit case where criminal proceeding as against respondent Nos. 5 to 8 needs to be quashed and set aside.

11. In the result, the petition is allowed to that extent. Criminal Case bearing R.T.C. No. 141/2014 is hereby quashed and set aside to the extent of petitioner Nos. 5 to 8 viz. Shalini Vijay Deore, Anita Manish Savant, Deepali Rahul Kamble and Ramabai Govind Ahir which is filed for the offences punishable under sections 498-A, 323, 506, 504 r/w. 34 of I.P.C. Petition of petitioner Nos. 2 to 4 is disposed of as withdrawn.

Rule is made absolute in aforesaid terms.