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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION (ST) NO.13446 OF 2023

1. Hardik Prakash Shah,
Aged 37 years, Occ: Service.
 2. Prakash Bhagwanji Shah,
Aged 69 years, Occu: Retired,
Both Residing at:-
A-202, Building No.107,
Shri. Om Shanti Kunj C.H.S. Ltd.,
Near GDS Chinease, Chembur,
Tilak Nagar, Mumbai – 400 089.
 3. Kajal Apurva Shah,
Aged 40 years, Occu.:
Residing at:-
A-204, Rama Residency, Dada Bhai,
Cross Road No.3, Near Irla East West
Bridge, Vileparle (West), Mumbai-56.
 4. Swati Jigar Shah,
Aged 38 years, Occu:
Residing at:
D-804, Prem Belaire Tilak Nagar,
Humlog CHS Building No.75,
Tilak Nagar, near Apna Bazaar,
Chembur, Mumbai – 400 089.
 5. Komal Kumarpal Shah,
Aged 35 years, Occ:
Residing at:-
Flat No.502, Parijatak CHS,
Dr. Ambedkar Road, Near Kalidas,
Natya Mandir, Mulund (West),
Mumbai – 400 080.
-Petitioners

Vs.

1. The State of Maharashtra,

(Th. Its Tilak Nagar Police Station).

2. Megha Hardik Shah,
Aged 33 years, Occ: Service,
Residing at:-
Room No.2, Laxmi Bhuvan
Oghadbhai Lane, M.G.Road,
Ghatkopar (East), Mumbai-Respondents

Mr. Vrushabh Savla, for the Petitioners.

Mr. V. N. Sagare, APP, for Respondent No.1-State.

Mr. Prerak P. Chaudhary, for Respondent No.2.

Mr. J. B. Kadam, PSI, Tilak Nagar, Police Station, Mumbai.

**CORAM : A. S. GADKARI AND
DR NEELA GOKHALE, JJ.
DATE : 22nd JULY, 2024.**

JUDGMENT (Per Dr. Neela Gokhale, J.) :-

- 1) Rule. Rule made returnable forthwith and with the consent of the parties, petition is heard finally.
- 2) The Petitioner seeks quashing of FIR No.406 of 2023 dated 1st June 2023 registered with the Tilak Nagar Police Station, Brihanmumbai City for offences punishable under Sections 498-A, 406, 504 and 34 of the Indian Penal Code, 1860 ('IPC'), the consequent charge-sheet and criminal proceedings bearing C.C.No.1752/PW/2023 pending before the Metropolitan Magistrate, 34th Court, Vikroli, Mumbai.
- 3) The Petitioners are the husband, father-in-law and three sisters-in-law of the Respondent No.2 ('Complainant') respectively.
- 4) Facts of the case in brief are as follows:

4.1) It is the case of the Complainant as discerned from the FIR that she married the Petitioner No.1 on 19th December 2021 and started residing at the matrimonial home along with the Petitioner Nos.1 and 2. The other Petitioners were married and were residing in their respective matrimonial homes. She contends that the entire expenses of the marriage were incurred by her father. It is the specific contention of the Complainant that the three sisters-in-law although residing in their separate houses indulged in interfering in the household of their brother. One such instance of this is they deliberately removed the house help from the Petitioner No.1's house and directed the Complainant to do all the household work herself. They directed her to show them via what's app video call the house as cleaned by her. They persistently directed her by text messages on her phone regarding what she should make for break-fast, lunch and dinner. They made a what's app group comprising of all the Petitioners and they continued to berate the Complainant and complain about her to the Petitioner No.1. Even her husband abused her and dug up quarrels on petty issues. He suspected her character and abused her on this count also. He refused to have conjugal relations with the Complainant on the pretext that he was diabetic.

4.2) On 10th October 2022 at 10.30 pm in the night, sister-in-law Kajal called the Complainant and started abusing her regarding cleaning the house. Her husband also joined and snatched the mobile from her hand and deleted the entire call record. He abused her and pushed her. Next day,

all the three sisters-in-law came to her house and abused her in filthy language and asked her to leave the house. The Petitioner No.2 also joined in the abuse. They all demanded gifts, etc. from her parents. Ultimately, they all quarreled with her and drove her out of the house. They have retained all the jewellery comprising her '*streedhan*' with them and have refused to return the same.

4.3) The Complainant has thus registered the FIR.

5) Mr. Vrushabh Savla, learned Counsel appears for the Petitioner and Mr. Prerak Chaudhary learned Counsel represents the Respondent No.2. Mr. V. N. Sagare, learned APP appears for the State.

6) Mr. Savla submitted that, the complaint is nothing but a matrimonial dispute, which has been given a criminal colour by misusing the due process of law. He states that, the Complainant has influenced the Police and had threatened to implicate them in false criminal cases. He also said that, the Complainant is trying to extort money from the Petitioners by issuing a notice through her Advocate demanding monthly maintenance. Mr. Savla further contends that, the parties have decided to file a divorce petition by mutual consent before the Family Court at Bandra and the draft of the same was already shared by the Petitioner No.1's uncle with the Complainant's father. He finally stated that, Section 498-A of the IPC is being abused and has already come under heavy criticism from the Delhi High Court. He thus, states that, there are no specific allegations against the

Petitioners and hence, the FIR deserves to be quashed.

7) Mr. Chaudhary drew our attention to the specific allegations appearing in the FIR against all the Petitioners. He also read the statements of witnesses namely, the parents of the Complainant as well as her uncle. All the statements corroborate the story of the Complainant in the FIR. He further stated that, the '*Streedhan*' of the Complainant has been unlawfully retained by the Petitioners and they have refused to hand over the same. Furthermore, he also contended that, the Petitioners had treated the Complainant with utmost amount of cruelty as is contemplated under Section 498-A of the IPC. Hence, he prayed for dismissal of the Petition.

8) Mr. Sagare, learned APP supported the case of the Complainant and drew our attention to the evidence from the charge-sheet.

9) Having gone through the contents of the FIR in detail, we find that, specific and categoric roles are attributed to each Petitioner independently and collectively. A fair reading of the FIR reveals that, the complainant, a woman-a newlywed daughter-in-law was pitted against the might of the five Petitioners, who were abusing and ill treating her on petty issues. The sole aim appears to be to extort money from her and her parents. This is clear from the fact that, even after driving her out of the matrimonial home, they have refused to hand over her '*Streedhan*' comprising of valuable jewellery and her articles. The allegations against the sisters-in-law pertaining to compelling the Complainant to show them

the house cleaned by her on what's app video call appears to be a peculiar and a sadist manner of ill treatment. This is enough to cause apprehension in the mind of the Complainant that, there was danger to her life and limb at the hands of the Petitioners.

10) We are unable to accept the arguments advanced by Mr. Savla since we are not required to examine his defence at this stage. It is settled position of law that under the extraordinary jurisdiction of Article 226 of the Constitution of India that, the High Court must not conduct a mini-trial at the time of hearing a Petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') for quashing of the FIR.

11) The Supreme Court in its decision in the case of *Priyanka Jaiswal v. The State of Jharkhand and Ors.* reported in 2024 INSC 357, has observed as under:

“13.....This Court in catena of judgments has consistently held that at the time of examining the prayer for quashing of the criminal proceedings, the Court exercising extra-ordinary jurisdiction can neither undertake to conduct a mini trial, nor enter into appreciation of evidence of a particular case. The correctness or otherwise of the allegations made in the complaint cannot be examined on the touchstone of probable defence that the accused may raise to stave off the prosecution and any such misadventure by the Courts resulting in proceedings being quashed would

be set aside....”

12) The allegations in the FIR *prima facie* disclose commission of the alleged offences. For the reasons set out above, we are not inclined to quash the FIR and the consequent criminal proceedings arising therefrom. In this view of the matter, the Petition is dismissed.

13) Rule is accordingly discharged.

(DR NEELA GOKHALE, J.)

(A.S. GADKARI, J.)

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signed by
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