

MHNS210012072021



ORDER BELOW EXH.17

This is an application under section 239 of the Cr.P.C. by accused no. 2 to 4 for discharge from the alleged offences under section 498-A, 504, 506 r/w 34 of the I.P.C.

2. Read the application and say filed thereon at Exh.23. Heard Ld.APP T.S.Rijwi for the state. All accused are absent. Similarly, Adv.M.M.Pathan, Adv.Prasanna Joshi, Adv.C.U.Kamble, Adv.S.S.Shinde, Adv.Komal Meharoliya who were representing accused persons were absent.

3. Perused the roznama and entire case record. This application has been filed on 05.12.2022. Ld.APP has filed say on 18.10.2023. However, none of the accused were appear since long. Similarly, today all accused are absent. Ld.APP submitted that, by moving this application all accused are trying to prolong and delay the proceeding. Considering the submission and the case record, this application is taken for consideration in the absence of accused and their advocates to avoid further delay.

4. By this application, accused no.2 to 4 have prayed for discharge on the ground that they were residing separately from the informant and accused no.1. It is also mentioned in the application that the informant herself has mentioned in her complaint dt.14.3.2020 that she and accused no.1 were residing separately. Similarly, it is stated in the application that there is no prima-facie evidence against accused no.2

to 4. So also, the contents of FIR doesn't show any allegations against accused no.2 to 4 and mere general allegations are made. Therefore, accused no.2 to 4 are unnecessarily facing the trial. Per contra, Ld.APP shortly submitted that, there were love relation between informant and accused no.1. Therefore, all accused were having grudge against the informant. Similarly, they were harassing and abusing the informant. So also, accused no.1 was having illicit relations with Asmita as alleged in the report. Thus, there is sufficient evidence against all accused. Ultimately, he prayed to reject the application.

5. I have considered the rival contentions and submission of Ld.APP. I have also gone through the FIR and entire charge-sheet. The alleged offences are under section 498-A, 323, 504, 506 r/w 34 of the IPC. It appears that, accused no.1 Amit Darwatkar is husband of the informant, accused no.2 Murlidhar is father-in-law, accused no.3 Ranjana is mother-in-law and accused no.4 sister-in-law of the informant. The informant Soniya has filed complaint dtd.14.03.2020 before the Women's Cell, Malegaon against all accused including Asmita Vikram Khandekar and Vishal Satpute. It is seen that, the informant and accused no.1 has performed love marriage. The informant herself has stated in the complaint that her in-laws were opposing their marriage therefore herself and accused no.1 were residing separately. However, it is seen that she has further stated therein that accused no.2 to 4 used to come to her house and abused and beat her. She has also stated therein that accused persons were giving physical and mental harassment to her. It reveals that the said facts were also recorded in the First Information Report. Therefore, it is seen that the informant has stated the entire incident of alleged cruelty in the complaint and the FIR. These oral facts needs to be appreciated after taking oral and documentary evidence of the informant and witnesses, if any. Needless to mention that in cases of

harassment and cruelty, oral evidence of the complainant or informant is the material because incidents happened within four walls of any house can be stated by the victim herself. In such circumstances, there are no sufficient grounds for discharging of accused no.2 to 4 at this premature stage of the proceeding. Ultimately, I pass following order :

ORDER

Application Exh.17 is hereby rejected.

(Order is dictated and pronounced in open court.)

Date :- 08/05/2024.

(M.T.Kharade)
Judicial Magistrate F.C.,
Manmad City.