



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2142 OF 2023**

Manisha G. Shah ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

Mr. Sagar A. Shahani for the Petitioner.
Ms M.M. Deshmukh, Addl.PP for the Respondent/State.

**CORAM : PRAKASH D. NAIK &
N. R. BORKAR, JJ.**
DATE : 29 NOVEMBER, 2023.

PC:-

. Heard both sides.

2. The petitioner has invoked the writ jurisdiction under Article 226 of the Constitution of India and sought to challenge the charge-sheet filed against her.

3. The first information report (FIR) was registered with Sion Police Station on 25 April 2022, at the instance of husband of petitioner, for the offences punishable under Sections 324, 427, 504 and 506 read with 34 of the Indian Penal Code. It is alleged that on 25 April 2022, the petitioner had abused the complainant and assaulted him by using broom. His hand was bitten. The complainant slapped the petitioner and proceeded

to police station for lodging the complaint. On completing of the investigation, the charge-sheet was filed for the offences punishable under Sections 324, 427 and 504 read with 34 of the IPC, thereby deleting Section 506 of the IPC.

4. The petitioner had produced the Death Certificate of the complainant indicating that he had expired on 30th April 2022. The said Certificate has been taken on record vide order dated 5th October 2023.

5. Respondent No.3 is the son of petitioner and the original complainant. None appears for respondent No.3 though served.

6. The learned counsel for the petitioner submitted that by no stretch of imagination the offences alleged against the accused are made out in the FIR or in the charge-sheet. The ingredients to constitute the offence under Section 324 of the IPC are lacking. The medical opinion submitted to the Investigating Officer indicates that the purported injuries suffered by the complainant can be self-inflicted. The complainant has expired. The prosecution is relying upon the

statement of witness Smt.Pratiksha Chiwilkar recorded on 26 July 2022. She has not corroborated the version of the complainant. She has stated that the complainant used to assault the petitioner. FIR is silent about overt-act of respondent No.3.

7. The learned APP submits that the FIR and statements recorded during the investigation spells out the offences and charge-sheet is filed against the petitioner.

8. We have perused the charge-sheet. The original complainant is the husband of the petitioner. Apparently, the relationship between the complainant and the petitioner was strained. Reading the contents of FIR does not make out any offences against the petitioner. The requisite ingredients to constitute the offence under Section 324 of the IPC are completely absent. The injury certificate of the complainant indicates that he had suffered blunt trauma to the right hand. The medical opinion sought by the police indicates that there is possibility of injuries being caused by self inflicted. The complainant has expired. The statement of witness does not

support the version of complainant. The charge-sheet does not make out offences against the petitioner.

9. Considering these circumstances, continuation of criminal proceedings against the petitioner would tantamount to abuse of process of law. The case is made out for quashing the charge-sheet.

ORDER

- (i) Writ Petition is allowed.
- (ii) The proceedings in C. C. No. 5100276 / PW / 2023 pending in the Court of Metropolitan Magistrate, 51st Court at Kurla are quashed and set aside.
- (iii) The petition is disposed of in the aforesaid terms.

(N.R. BORKAR, J.)

(PRAKASH D. NAIK, J.)