



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3960 OF 2024

1. Pradhan Shivajirao Sonkamble
 2. Pranita Madhavrao Sonkamble
- ..APPLICANTS
- VERSUS
1. State of Maharashtra
 2. Kanchan Pradhan Sonkamble
- ..RESPONDENTS

....
Mr. M.K. Bhosale, Advocate for applicants
Mr. S.B. Jadhav, A.P.P. for respondent no.1 - State
....

CORAM : R.M. JOSHI, J.
DATE : 27th AUGUST, 2026

PER COURT :

1. In spite of service, none for Respondent No.2. Hence heard in her absence.
2. The Applicants seek quashment of the F.I.R. as well as charge-sheet in connection with Crime No.537 of 2024 registered with Vivekanand Chowk Police Station, Dist. Latur for the offences punishable under Sections 498-A, 323, 504 and 506 read with Section 34 of the Indian Penal Code.
3. The F.I.R. lodged by Respondent No.2 – Informant indicates that the allegation against the Applicants is that they were in illicit relationship. There is also allegation with regard to abusing and beating to the informant.

4. Learned counsel for the Applicant submits that Applicant No.2 is not relative of the informant in order to attract provisions of Section 498-A of the I.P.C. In so far as Applicant No.1 is concerned, he drew attention of the Court to the judgment of the Hon'ble Supreme Court in case of *U. Suvetha Vs. State and Another, (2009) 6 SCC 757* and *Dechamma I.M. alias Dechamma Koushik Vs. State of Karnataka and Another, 2024 SCC OnLine SC 3853*. In so far as allegations with regard to the offences attributable under Sections 323, 504 and 506 of the I.P.C. are concerned, it is the contended that those are non-cognizable in nature and as such charges against the Applicants in respect of those offences not be maintainable.

5. Learned A.P.P. opposed the application by pointing out the allegations against the Applicants in the F.I.R. He submits that the allegations against them are of causing assault on the victim.

6. Since none appeared on behalf of Respondent No.2, Respondent No.2 could not be heard.

7. Prima facie, perusal of the F.I.R. indicates that reason for filing the F.I.R. is the alleged illicit relationship between the Applicants. Except that allegations, this Court finds no prima facie allegation against them. It would be relevant to take note of the judgment in case of U. Suvetha (supra). In paragraph no.9 of the said judgment, following observations are made :-

“9. The word ‘cruelty’ having been defined in terms of the aforesaid Explanation, no other meaning can be attributed thereto. Living with another woman may be an act of cruelty on the part of the husband for the purpose of judicial separation or dissolution of marriage but the same, in our opinion, would not attract the wrath of Section 498-A of the Indian Penal Code. An offence in terms of the said provision is committed by the persons specified therein. They have to be the ‘husband’ or his ‘relative’. Either the husband of the woman or his relative must have subjected her to cruelty within the aforementioned provision. If the appellant had not been instigating the husband of the first informant to torture her, as has been noticed by the High Court, the husband would be committing some offence punishable under the other provisions of the Indian Penal Code and appellant may be held guilty for abetment of commission of such an offence but not an offence under Section 498-A of the Indian Penal Code.”

8. Having regard to the said observation and considering the allegations in the present F.I.R., there is substance in the contention of learned counsel for the Applicants that no offence punishable under Section 498-A of the I.P.C. is made out against the Applicants. In any case, admittedly Respondent No.2 is not relative of Applicant No.1/Husband, and in view of provision of Section 498-A of the Indian Penal Code, no offence could be said to have been made out against her.

9. At this stage, it would be useful to refer to judgment of Hon’ble Supreme Court in case of ***State of Haryana and others Vs. Bhajan Lal and others, 1992 SCC (SUPP) 1 335***, which gives guidelines for the decision of quashment of criminal proceedings. Relevant observations made therein read thus :

“ 102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code of the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific

provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

10. The guidelines laid down for quashment of criminal proceeding in the above judgment, fully apply to the instance case. Accepting the allegations against the applicants as it is to be true, offence punishable under Section 498-A of the Indian Penal Code does not attract. Consequently, the only cognizable offence is not sustainable. As result of this, the trial of non-cognizable offence cannot be allowed to be proceeded on the basis of F.I.R. and investigation carried out thereon. Having regard to these facts, to call upon the applicants to undergo rigors of trial would be abuse of Court process.

11. As such, the Criminal Application deserves to be allowed and accordingly allowed in terms of prayer clause [B] and [C-1].

(R.M. JOSHI, J.)

SSD