

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR**

**Criminal Application (APL) No.350 of 2017**  
***(Deepak s/o. Natthuji Adhau and Ors. vs. State and another)***

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Office notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

Court's or Judge's Orders

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Mr.Rohan Chandurkar, Advocate for the applicants.  
Mr.Ambarish Joshi, A.P.P. for the Respondent No.1.  
Ms Sonali Saware, Advocate for the Respondent No.2.

**CORAM** : SMT VASANTI A NAIK &  
M. G. GIRATKAR, JJ.

**DATE** : 18.9.2017.

The Criminal Application is admitted and heard finally at the stage of admission.

By this Criminal Application, the applicants seek the quashing and setting aside of the First Information Report registered against the applicants for the offence punishable under Section 498A r/w. Section 34 of the Penal Code.

The non-applicant no.2 is the wife of the applicant no.1 and the applicant nos. 2 and 3 are the father-in-law and the mother-in-law of the non-applicant no.2. The applicant no.4 is the sister of the applicant no.1 and the applicant no.5 is her husband. Similarly, the applicant no.6 is the other sister of the applicant no.1. A report was lodged by the non-applicant no.2 in the Dhantoli Police Station that the applicant no.1 and the applicant no.2-her father-in-law were always asking her to bring Rs.Five Lakhs from her parents. It is alleged in the report that the applicant no.1

and the applicant no.2 had threatened the non-applicant no.2 that she could be permitted to reside in the matrimonial house only if she fulfills the demand for the sum of Rs.Five Lakhs from her parents. It is alleged in the F.I.R. that the mother-in-law of the non-applicant no.2 i.e. the applicant no.3 always quarreled with her on the ground that the non-applicant no.2 does not do any household work. It is alleged that the applicant no.3/mother-in-law always asked the non-applicant no.2 to perform the entire household work. It is alleged that the applicant no.3-mother-in-law instigated the applicant no.1 against the non-applicant no.2. It is further alleged that the applicant nos. 4, 5 and 6 viz. sister of the applicant no.1, her husband the other sister of the applicant no.1 respectively, always used to come to the matrimonial home and interfere in the household matters. It is alleged that the applicant nos. 4 and 5 and 6 used to tell the applicant nos. 1 and 2 that they should not keep the non-applicant no.2 in the house and that the marriage between the applicant no.1 and the non-applicant no.2 should be dissolved. On the basis of the aforesaid report, the F.I.R. was registered against the applicants for the offence punishable under Section 498-A r/w. Section 34 of the Penal Code. The applicants have sought for the quashing and setting aside of the F.I.R.

Mr.Rohan Chandurkar, the learned Counsel for the applicants submitted that the applicant nos. 1 and 2 are not desirous of pressing the prayer made in the Criminal Application and that they would avail the appropriate remedy. It is stated that the prayer made by the applicant nos. 3 to 6 for the quashing and setting aside of the F.I.R.

may be considered. It is submitted that even if the allegations in the F.I.R. against the applicant nos. 3 to 6 are accepted at their face value and in the entirety, an offence u/s.498A of the Penal Code cannot be made out against them. It is submitted that the allegations levelled by the non-applicant no.2 against the applicant nos. 3 to 6 reflect normal wear and tear instances in the matrimonial home. It is submitted that the other allegations would not fall within the definition of term "cruelty" u/s.498A of the Penal Code. It is stated that it is not alleged against the applicant nos. 3 to 6 that they had at any point of time demanded property or money from the parents of the non-applicant no.2 and that they were harassing the non-applicant no.2 as their demand was not fulfilled.

Mr.Ambarish Joshi, the learned Additional Public Prosecutor appearing for the non-applicant no.1 and Mr.Dharkar, the learned Counsel for the non-applicant no.2 submitted that the applicant no.3 was ill-treating the non-applicant no.2 and the applicant nos. 4 to 6 were always coming to the matrimonial home and interfering in the family life of the applicant no1 and non-applicant no.2. It is however fairly admitted by the learned Additional Public Prosecutor that there is no allegation in the F.I.R. against the applicant nos. 3 to 6 that they had at any point of time demanded money from the parents of the non-applicant no.2 and had ill-treated the non-applicant no.2 due to non-fulfilment of the said demand.

It is apparent on a reading of the F.I.R. that is registered against the applicant nos. 3 to 6 that there is no allegation in the report against the said applicants that they

had harassed the non-applicant no.2 due to non-fulfilment of unlawful demand for any property or valuable security. There is no allegation in the F.I.R. against the applicant nos. 3 to 6 that they had behaved with the non-applicant no.2 in such a way that that was likely to drive the non-applicant no.2 to commit suicide or cause grave injury or danger to her life, limb or health. The only allegations against the non-applicant no.3-mother-in-law are that she never cooked the food nor performed the household duties and asked the non-applicant no.2 to perform the entire household work. It is further alleged against the applicant no.3 that she used to instigate the applicant no.1 to behave badly with the non-applicant no.2. The only allegation against the non-applicant nos. 4 to 6 is that they used to come to the matrimonial home and interfere in the married life of the applicant nos. 1 and the non-applicant no.2. It is further alleged against the applicant nos. 4 to 6 that they instigated that the marriage between the applicant no.1 and the non-applicant no.2 should be dissolved. It is rightly submitted on behalf of the applicant nos. 3 to 6 that the allegations levelled against the applicant nos. 3 to 6 would not fall within the ambit of the term "cruelty" u/s. 498-A of the Penal Code. The non-applicant no.2 has not alleged that the applicant nos. 3 to 6 had at any point of time demanded property, money or any other valuable security from the parents of the non-applicant no.2 and had ill-treated her because their demand was not fulfilled. Since prima facie the offence under Section 498A of the Penal Code cannot be made out against the applicant nos. 3 to 6, even if the allegations in the F.I.R. are accepted at their face value, in

the entirety, the F.I.R. registered against them is liable to be quashed and set aside.

Hence, for the reasons aforesaid, the Criminal Application is partly allowed. The F.I.R. registered against the applicant nos. 3 to 6 is hereby quashed and set aside. Order accordingly.

JUDGE

JUDGE

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