

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.1114 OF 2019

- 1) Vishal S/o Arjun Chavan
Age – 31 years, Occ : Legal Practitioner,
R/o Sai Regency, B-603, Samarth Nagar,
Vidyalaya Marg, Mulund East,
Mumbai.
At present residing at N-4, C-54,
CIDCO, Aurangabad.
- 2) Arjun S/o Anandrao Chavan
Age – 64 years, Occ : Retired Government
Servant, R/o Sai Regency, B-603,
Samarth Nagar, Vidyalaya Marg, Mulund East,
Mumbai.
At present residing at Mandwa, Post.Zhotinga,
Tq. Lonar, Dist. Buldhana.
- 3) Sindhu W/o Arjun Chavan
Age-50 years, Occ : Household,
R/o Sai Regency, B-603, Samarth Nagar,
Vidyalaya Marg, Mulund East, Mumbai.
At present residing at Mandwa, Post.Zhotinga,
Tq. Lonar, Dist. Buldhana.
- 4) Sumit S/o Arjun Chavan
Age-29 years, Occ : Service,
R/o Raje Sambhaji Garden,
B-603, Sai Fegency, Samarth Nagar,
Vidyalaya Marg, Mulund East, Mumbai.
- 5) Bhushan S/o Arjun Chavan
Age-26 years, Occ : Service,
R/o Sai Regency, B-603, Samarth Nagar,
Vidyalaya Marg, Mulund East, Mumbai.
- 6) Daulatrao S/o Mahipati Kahale
Age-78 years, Occ ; Agriculture,

R/o At Wazar, Post Belora, Tq. Mantha,
Dist. Jalna.

7) Deubai W/o Daulatrao Kahale
Age-72 years, Occ : Agriculture,
R/o At Wazar, Post Belora, Tq. Mantha,
Dist.Jalna.

8) Ashatai D/o Bhikaji Landge
Age-29 years, Occ : Education,
R/o At Savargaon Teli, Post.Bhumrala,
Tq. Lonar, Dist. Buldana.

..APPLICANTS

-VERSUS-

1) The State of Maharashtra

2) Shalaka W/o Vishal Chavan
Age-30 years, Occ : Household,
R/o C/o Bhimrao More, Plot No.13,
Gut No.90, In front of Venkatesh School,
Naik Nagar, Beed Bypass Road, Aurangabad.

..RESPONDENTS.

Mr.R.S. Deshmukh, Advocate for applicants
Mr.D.R. Kale, APP for respondent/State
Mr.Kiran Nagarkar h/f Mr.S.S. Kularni, Advocate
for respondent No.2

...

CORAM: T.V. NALAWADE AND
V.L. ACHLIYA, JJ.

DATE : 30TH JULY, 2019

JUDGMENT (PER V.L. ACHLIYA, J):

. Rule. Rule made returnable forthwith. By
consent heard finally.

2. By this application filed U/Sec. 482 of the Code of Criminal Procedure, the applicants have prayed for quashing criminal proceedings registered against them as R.C.C. No.1099/2019 pending on the file of Judicial Magistrate, First Class, Aurangabad. They are charge-sheeted for committing offences punishable U/Secs. 498-A, 406, 270, 323, 504, 506 read with section 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prevention Act, 1961.

3. Heard learned counsel for the applicants and respondent no.2 – complainant as well as learned A.P.P. Perused the charge-sheet.

4. Before adverting to deal with the submissions advanced, it is useful to refer few facts leading to filing of this application. The applicants are charge-sheeted for committing offences punishable U/Secs. 498-A, 406, 270, 323, 504, 506 read with section 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prevention

Act, 1961 on the basis of complaint lodged by respondent no.2. On 04.10.2018, the Respondent No.2-the wife of the applicant no.1, visited Police Station, Pundliknagar, Aurangabad and lodged complaint alleging therein that she was illtreated and harassed by the applicants-accused. It is alleged that on 07.12.2017 her marriage was solemnized with applicant no.1. On very next day of marriage, the accuse persons abused her. They told her that her father has not given anything in her marriage. When her uncle came to fetch her back he was not given proper treatment. Before leaving the house the accused took out her ornaments. After reaching house, she narrated the ill-treatment and harassment she suffered at the hands of the accused. Immediately thereafter, her father reached Cupboard, Washing Machine, Induction Gas utensils etc. to the house of accused and told them that due to ill-health and financial difficulties, he could not provide those articles at the time of marriage. He requested them not to ill-treat and harass his daughter. He

also requested them to return the ornaments to his daughter. For few days, she was treated properly. Thereafter, the accused again started giving illtreatment to her. The respondent no.2 – the complainant has alleged that accused no.1 had illicit relationship with accused no.8 much prior to her marriage and continued after the marriage. On the basis of complaint lodged by respondent no.2, the offences U/Sec. 498A, 406, 270, 323, 506 r/w section 34 of I.P.C. came to be registered against applicants-accused vide C.R. No.255/2018 with Police Station Pundliknagar. Being aggrieved the applicants have preferred this application.

5. At the outset, learned counsel for the applicants not pressed the application to the extent of applicant nos.1 to 3 and urged to withdraw the application to their extent. Accordingly, the application is disposed of as withdrawn to the extent of applicant nos.1 to 3.

6. The application is pressed to the extent

of applicant nos.4 to 8. The applicant nos.4 and 5 are the younger brothers of accused no.1. They are residing at Mumbai. The applicant nos.6 and 7 are the father-in-law and mother-in-law of respondent no.2, who are claimed to be residing at village Wazar, Tq. Mantha, Dist. Jalna. They are claimed to be aged about 78 and 72 years respectively. The applicant no.8 is claimed to be maternal sister-in-law of respondent no.2 residing at village Savargaon Teli, Tq. Lonar, Dist. Buldhana. The applicant nos.2 and 3 are the father and mother of accused no.1 and also claimed to be residing at village Mandwa, Tq. Lonar, Dist. Buldhana. The applicant no.1 is the husband of respondent no.2. He claims to be practicing Advocate and residing at Aurangabad.

7. Mr. Deshmukh, learned counsel for the applicants submits that the case in hand is a classic case of gross abuse of process of court as well as law at the instance of respondent no.2 – complainant to implicate the entire members of

family of her husband and relatives on account of matrimonial discord with her husband/accused no.1. It is submitted that the father of respondent no.2 who has served and retired as a Police Inspector at Aurangabad instrumental in lodging false complaint through his daughter the respondent no.2 so as to implicate the entire members of family of her husband and his relatives. The complaint has been lodged against the applicants after due deliberation, consultation and after taking legal advice to any how implicate them in a false case. It is submitted that a false story of ill-treatment, harassment has been cooked up with intention to rope in the entire family members. Without conducting any inquiry and ascertaining the truthfulness into allegations made and attributed to the applicants the case has been registered against the applicants at the behest and pressure exerted by father of respondent no.2, who retired as Police Inspector at Aurangabad. While registering complaint, the application dated 25.09.2018 filed by the applicant no.1 expressing

apprehension of false complaint being lodged at the instance of respondent no.2 was overlooked by concerned Police Officer.

8. It is submitted that the father of respondent no.2 and applicant no.1 were classmates and close friends of each other. Father of the non-applicant no.2 had served as Police Inspector at Mukundwadi Police Station, Aurangabad. After his retirement, he visited applicant no.2 and made inquiry in respect of M.S.W. course at Aurangabad for his daughter i.e. respondent no.2. On the suggestion and advice of applicant no.2, the father of respondent no.2 got admitted respondent no.2 in Vijendra Kabra College of Social Work Aurangabad. Few months thereafter, the father of respondent no.2 met applicant no.2 and made inquiry in respect of his son applicant no.1. He told him that his son has completed B.A. LL.B. from Mumbai University and intending to start practice at Aurangabad and preparing to appear for UPSC examination and is residing at Delhi.

Thereafter the father of respondent no.2 moved proposal of marriage of his daughter i.e. respondent no.2 with applicant no.1. Since the applicant no.2 and father of respondent no.2 were sharing very cordial and friendly relationship, the marriage of respondent no.2 fixed with applicant no.1. Accordingly, on 07.02.2017 the marriage of applicant no.1 solemnized with respondent no.2. After the marriage applicant no.1 and respondent no.2 went for honeymoon to Kerla. During the period of honeymoon and thereafter the respondent no.2 did not cohabit with applicant no.1 and failed to discharge marital obligations as a wife. After the marriage, the applicant nos.2 and 3 shifted to their village to look after their agricultural lands, which they were cultivating since after retirement of applicant no.2. The respondent no.2 continued to prosecute M.S.W. course. The college fees and other expenses were paid by applicants. She was actively taking part in the various programmes arranged in her College. So also went for educational tour organized by

College. According to the applicants, respondent no.2 detected to be suffering from High Blood pressure. The fact to this effect suppressed at the time of marriage. After marriage, as respondent no.2 was continuously falling ill, she was taken to MIT Hospital, Dande Hospital at Aurangabad. After her medical examination, the Doctor told that she is suffering from High Blood Pressure. Therefore, the applicant no.1 took her to Dr.P.D. Shahpurkar attached to the CIGMA Hospital for obtaining second opinion. He too confirmed that the respondent no.2 is suffering from High Blood Pressure.

9. On 10th August, 2018 to refresh her mind and to provide change in environment the applicant no.1 took respondent no.2 to Mumbai. The sister of respondent no.2 also residing at Kalyan. The parents of the respondent no.2 came to Mumbai for attending family function. Therefore, the respondent no.2 requested to visit her sister's house at Kalyan. Therefore both of them visited

the house of sister of respondent no.2. The parents of respondent no.2 expressed their desire to take respondent no.2 with them. Therefore, the respondent no.2 came to Aurangabad with her parents. Thereafter the respondent no.2 did not turn up to her matrimonial house. Therefore, the applicant no.1 approached to Women and Child Complaint Redressal Forum set up at Police Commissioner Office, Aurangabad. He filed complaint before Forum on 25.09.2018. Taking cognizance of complaint, the Forum issued notice to respondent no.2 and asked her to remain present on 11.10.2018 for counseling. As a counter blast to the complaint dated 25.09.2018 made by the applicant no.1 to Women and Child Complaint Redressal Forum, the non-applicant no.2 had lodged a false complaint with Police Station Pundliknagar, which leads to registration of crime against applicants on 04.10.2018. The respondent no.2 also filed proceedings under the Domestic Violence Act, which is registered as PWDV/107/19 with the Court of Judicial Magistrate, First

Class, Aurangabad.

10. In the background of facts mentioned above, learned counsel for the applicants contended that the case initiated against the applicants at the instance of respondent no.2 is totally false. The case has been registered at the instance of father of respondent no.2, who retired as a Senior Police Officer at Aurangabad. He pressurized the Police Officials to register the criminal case against applicants without conducting inquiry. It is submitted that except the applicant no.1 no one from their family permanently residing at Aurangabad. The applicant no.2 is suffering from diabetes, bronchitis and other ailments. The applicant no.3 is suffering from multiple health issues such as joint arthritis, hyper tension etc. Both of them are residing at village Mandwa, Tq. Lonar, Dist. Buldhana and looking after their agricultural land. The applicant no.6 is more than 78 years old and suffering from tongue cancer, diabetes, hyper

tension and old aged ailments. The applicant no.7 is more than 72 years of age and suffering from diabetes and old age related ailments. Both of them are residing at village Wazar, Post. Belora, Tq. Mantha, Dist. Jalna. The applicant nos.4 and 5 are doing job as well as prosecuting education at Mumbai. The applicant no.8 is maternal cousin sister of applicant no.1. She did her graduation from Amravati University and residing at Savargaon Teli, Tq.Lonar, Dist.Buldhana. In this background, learned counsel for the applicants contended that the entire case against the applicants is false and based upon false story cooked up by father of respondent no.2. The complaint has been filed with ulterior motive to rope in the entire family of the applicant no.1 and urged to quash the proceeding against applicant nos.4 to 8.

11. The respondent no.2- complainant filed affidavit in reply. If we consider the affidavit in reply filed by respondent no.2, then she has not disputed the fact relating to marriage,

relationship of respondent no.2 with applicant nos.1 to 8, their age, occupation, ailments and place of their residence. If we consider the complaint lodged by respondent no.2 and contentions raised in the affidavit in reply then she has not disputed that applicant nos.2 and 3 i.e. father-in-law and mother-in-law have agricultural lands at village Mandwa, Tq. Lonar, Dist. Buldhana and they are cultivating the same. She has also not disputed that applicant no.2 has retired from government service. According to respondent no.2, the applicant nos.2 and 3 occasionally goes to their village for the purpose of cultivation of agricultural land. Most of time they are residing at Aurangabad. She has also not disputed that the applicant nos.4 and 5 are younger brothers of her husband and they are carrying their own profession/job at Mumbai. According to her, applicant nos.4 and 5 occasionally visit their house to meet their parents. According to respondent no.2, during their visit to Aurangabad they used to join other

accused to illtreat and harass her. She has also not disputed that applicant nos.6 and 7 are old aged persons and suffering from various ailments. She has also not disputed that the respondent no.6 and 7 are residing at their native village. According to respondent no.2, applicant nos.6 and 7 used to come to Aurangabad for taking treatment and during their stay at her matrimonial house, they used to join with other accused to illtreat and harass her. If we consider the complaint then, the entire thrust of the allegations made by respondent no.2 are against accused nos.1 and 8. The basic reason for matrimonial discord appears to the strong suspicion the respondent no.2 carrying against applicant no.8 of illicit relations with husband i.e. applicant no.1. According to respondent no.2, the applicant no.8 after completing her graduation came to Aurangabad to prepare competitive examination. The applicant no.3 being female and related as daughter of maternal aunt of her husband, she was residing at her matrimonial house much prior to her marriage

with applicant no.1. According to respondent no.2, the applicant no.8 had developed close intimacy with applicant no.1 and they were in relationship much prior to her marriage with applicant no.1. In order to separate her from applicant no.1, she was subjected to face illtreatment and harassment.

12. Thus, if we consider the overall facts of the case, and more particularly, allegations made against the accused persons, then the thrust of allegations based upon alleged relationship between applicant no.1 and applicant no.8. It appears that the respondent no.2 strongly believed that applicant no.8 is in illicit relationship with her husband. Their relationship continued even after her marriage with applicant. In this context, it is useful to refer the facts stated in para 6 of the affidavit in reply filed by respondent no.2, which reads as under :

"6. The applicant submits that the contents of para 6 of the criminal application are in

respect of applicant no.8 who is relative of applicants. The applicant no.8 acquired B.A. qualification and thereafter came to Aurangabad to join coaching classes to qualify the competitive examination to get the opportunity of any type of service and appeared accordingly to many such examinations. And hence applicant no.8 being a lady preferred to reside at the house of applicants before my marriage to avail better security and protection being female in point of view. Therefore, applicant no.8 developed close relationship/intimacy with applicant no.1 and this relationship developed such height that later on turned into close relationship which cannot be explained/described in words. To prove such closeness some of the photographs will clear the issue whether applicant no.1 kept illicit relation with applicant no.8. Photos enclosed. The applicant no.8 developed a close intimacy with applicant no.1 and due to such continuous lust applicant no.8 on many occasions and for all the while gave ill treatment and made my harassment with a view to separate me from applicant no.1. But after my marriage there is disturbance to all the applicants in relation to applicant no.1 with applicant no.8. So the applicant no.8 is the main cause of struggle and harassment point of view. On this count alone criminal application is liable to be rejected.

Copies of photographs of applicant no.1 with applicant no.8 are annexed herewith and

marked as Exhibit – R5.”

13. In the affidavit in reply, the respondent no.2 also dealt with the averments made in the application in respect of applicant nos.4 to 7. She has admitted that applicant nos.4 and 5 are doing private job and they are residing outside the city of Aurangabad. She has also admitted that occasionally they come to Aurangabad to meet their parents i.e. applicant nos.2 and 3. In that view, no case stands against applicant nos.4 and 5 to prosecute them for committing offences U/Secs. 498-A, 406, 270, 323, 504, 506 read with section 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prevention Act, 1961.

14. Similarly, in respect of applicant nos.6 and 7, the respondent no.2 has admitted in the affidavit in reply that they are old aged persons and related with her as maternal mother-in-law and father-in-law. She has also admitted that applicant no.6 is suffering from Tongue Cancer as

well as ailments like diabetics, hypertension and ailments relating to old age. She has also admitted that applicant no.6 required to take chemo therapy treatment in Bajaj Hospital and other hospitals and for that purposes, she used to come to Aurangabad and used to stay at her matrimonial house. She has also admitted that applicant no.7 the husband of applicant no.6 is old aged person and suffering from various ailments like diabetics and other ailments generally suffered by old aged person and taking treatment from Doctor at Aurangabad. She further admitted that applicant nos.6 and 7 are permanent residents of village Wazar, Post.Belora, Tq. Mantha, Dist. Jalna and due to their relationship with applicant no.3, they used to come and stay at her matrimonial house, while coming to Aurangabad of taking treatment. According to respondent no.2, applicant nos.6 and 7 used to torture her during their stay at her matrimonial house, whenever they used to come to Aurangabad.

15. Thus if we consider the case of applicant nos.4 to 7 in the light of affidavit in reply filed by respondent no.2 then it can safely inferred that no offence U/Secs. 498-A, 406, 270, 323, 504, 506 read with section 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prevention Act, 1961 prima facie attracted against applicant nos.4 to 8. The applicant nos.4 to 8 are not permanently residing in the matrimonial house of respondent no.2. They used to occasionally visit the house of respondent no.2 at Aurangabad. The applicant nos.4 and 5 used to come to Aurangabad only to meet their parents. Similarly, the purpose of visit of applicant nos.6 and 7 to house of respondent no.2 to take treatment in hospital at Aurangabad. It is therefore difficult to believe that the applicant nos.4 to 7 had caused any type of illtreatment and harassment or made any sort of demand from respondent no.2, so as to prosecute them for committing offence U/Secs. 498-A, 406, 270, 323, 504, 506 read with section 34 of the Indian Penal Code and Sections 3

and 4 of the Dowry Prevention Act, 1961.

16. If we consider the overall facts of the case and the allegations attributed by respondent no.2 against applicant nos.4 to 8 then allegations made against them are vague and general in nature. The entire thrust of allegations made in the complaint are mainly against applicant nos.1 to 3, who have withdrawn the application. So far as applicant nos.4 to 8 are concerned, prima facie no offence U/Sec. 498A r/w Sec. 34 of IPC is attracted against them. It is well settled position in law that all sort of illtreatment and harassment not constitute 'Cruelty' within the meaning of Section 498A of IPC. In order to attract the offence U/Sec. 498A of IPC, the act of illtreatment and harassment alleged against accused must be an act amounting to cruelty as explained under clause (a) or (b) as to explanation provided under section 498A of IPC. If we read the allegations then none of the act attributed to applicants/accused nos.4 to 8 prima

facie satisfy the ingredients of offence U/Sec. 498A of IPC. It is no where the case of respondent no.2 that she was illtreated and harassed by applicants with intention to coerce her to submit to the demand of dowry. So also it is not the case of respondent no.2 that she was illtreated and harassed by the applicant nos.4 to 8 with intention to drive her to commit suicide or to cause grave injury or danger to her life or limb. In the light of affidavit in reply filed by respondent no.2, the allegations attributed against applicant nos.4 to 8 are that they use to join the accused no.1 to illtreat and harass her, whenever they used to visit their matrimonial house. No where the respondent no.2 has stated in her complaint that accused nos.4 to 8 illtreated and harassed her to coerce to bring dowry from her parents or with intention to drive her to commit suicide or cause injury to her life or limb. In that view, offence U/Sec. 498A of the IPC not attracted against the applicants.

17. The acts attributed to applicant no.8 that she was in illicit relationship with applicant no.1 i.e. husband of respondent no.2 also not attract any of the offences registered against the applicant no.8. The allegations made in the complaint are primarily against the applicant nos.1 to 3. The allegations made against applicant nos.4 to 8 are concerned, apparently same are made with intention to any how implicate the entire family of applicant no.1 on account of matrimonial discord and strained relationship of the respondent no.2 with her husband.

18. The marriage of respondent no.2 with applicant no.1 was solemnized on 07.02.2017. The complaint leading to registration of offence came to be lodged on 04.10.2018 i.e. after period of more than one and half year after marriage and alleged acts of illtreatment and harassment caused to respondent no.2. If we look into allegations made in complaint then the complainant has alleged that the accused persons started to abuse and

illtreat her from the very day she entered into her matrimonial house. The fact is not in dispute that on 25.09.2018, the applicant no.1 lodged complaint with Women Redressal Forum. It is also not in dispute that Women Redressal Forum issued notice to respondent no.2 for the purpose of counselling. Immediately after lodging of complaint by the applicant no.1 and date fixed for counselling, the respondent no.2 has lodged complaint against applicants and also initiated proceedings under Domestic Violence Act. She has not disputed that after the marriage she went for honeymoon to Kerla. She has also not disputed that after marriage she continued to prosecute her study and payment of fees etc by her husband. Therefore, there is strong reason to accept the contentions of learned counsel for applicants that as a counter blast to the complaint lodged by applicant no.1 the false complaint came to be filed at the instance of respondent no.2.

19. It is quite settled position in law that

the powers conferred U/Sec. 482 of the Cr.P.C to be exercised sparingly and that too in an exceptional circumstances made out for invoking such powers. In the case of ***State of Haryana and others V/s Ch. Bhajan Lal and others*** reported in ***1992 Cri.L.J. 527***, the Apex Court has considered the scope of exercise of powers U/Sec. 482 of the Cr.P.C. and laid down categories of cases. In para 108, the Court has observed as under :-

"108. 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 extra-ordinary 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 F.I.R. 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 F.I.R. 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 or 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.*

20. In the case of ***Geeta Mehrotra and another Vs. State of Uttar Pradesh and another***, reported in ***(2012) 10 SCC 741***, the Apex Court has noted the tendency on the part of informant to rope in as many as possible the relatives of her husband and quashed the complaint against the married sister of the complainant's husband, who was not living with the family of the complainant's husband. It is held that where large number of family members are included in F.I.R. by casually mentioning their names and complaints did not disclose their active involvement,

cognizance of matter against them not to be justified and amounts to abuse of judicial process and fit case for quashment of proceedings against them U/Sec. 482 of Cr.P.C. In para 18 and 21, the Hon'ble Apex Court has observed as under :-

"18. Their Lordships of the Supreme Court in Ramesh Vs. State of T.N., (2005) 3 SCC 507, had been pleased to hold that the bald allegations made against the sister-in-law by the complainant appeared to suggest the anxiety of the informant to rope in as many of the husband's relatives as possible. It was held that neither the FIR nor the charge sheet furnished the legal basis for the magistrate to take cognizance of the offences alleged against the appellants. The learned Judges were pleased to hold that looking to the allegations in the FIR and the contents of the charge sheet, none of the alleged offences under Section 498A, 406 and Section 4 of the

Dowry Prohibition Act were made against the married sister of the complainant's husband who was undisputedly not living with the family of the complainant's husband. Their Lordships of the Supreme Court were pleased to hold that the High Court ought not to have related the sister in law to the ordeal of trial. Accordingly, the proceedings against the appellants were quashed and the appeal was allowed.

21. It would be relevant at this stage to take note of an apt observation of this Court recorded in the matter of **G.V.Rao Vs.L.H.V. Prasad**, reported in (2000) 3 SCC 963 wherein also in a matrimonial dispute, this Court has held that the High Court should have quashed the complaint arising out of a matrimonial dispute wherein all family members had been roped into the matrimonial litigation which was quashed

and set aside. Their Lordships observed therein with which we entirely agree that : (SCC p.698, para 12)

"12. There has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be

mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their 'young' days in chasing their 'cases' in different courts."

21. Thus on due consideration of overall facts of the case in the light of settled position in law, we are of the view that the allegations made against applicant nos.4 to 8 are too vague and general in nature. They appears to be falsely implicated in the case at the instance of respondent no.2, due to matrimonial discord the respondent no.2 having with her husband. Due to dispute with husband, the respondent no.2 has rope

in entire members of the family of her husband and his close relatives residing separately and at far away distance from the matrimonial house of respondent no.2. Affidavit in reply filed by respondent no.2 dealing with the contentions made in respect of applicant nos.4 to 8 itself more than sufficient to accept that no sufficient grounds exist to proceed against applicant nos.4 to 8. Admittedly, applicant nos.4 to 8 are not residing in the matrimonial house of respondent no.2. Applicant nos.4 and 5 are residing at Mumbai and doing their respective jobs. The respondent no.2 has admitted in her affidavit that they occasionally come to Aurangabad to meet their parents. Similarly, the applicant nos.6 and 7 are old aged persons. They are residing at their village in Jalna district and suffering from various ailments. Respondent no.2 has admitted in her affidavit that for the purpose of taking medical treatment, they visit Aurangabad and stay at their house. They are mother and father of applicant no.3 i.e. mother in law of respondent

no.2. The applicant no.8 is the daughter of maternal aunt of applicant no.1. She claimed to be residing at matrimonial house of respondent no.2 since prior to her marriage with applicant no.1 and preparing for competitive examination. She too resident of village Savargaon Teli, Post. Bhumrala, Tq. Lonar, Dist. Buldhana located far away distance for matrimonial house of respondent no.2. The strong suspicion the respondent no.2 carrying against applicant no.8 as illicit relationship with her husband itself not sufficient to attract the commission of offences punishable U/Secs. 498-A, 406, 270, 323, 504, 506 read with section 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prevention Act, 1961. Therefore, considering the overall facts of case, we are of the view that the continuation of proceedings against applicant nos.4 to 8 amounts to gross abuse of process of Court and exercise in futility. It would lead to force them to face the ordeal of criminal prosecution on the basis of motivated complaint filed against them at the

instance of respondent no.2 on account of matrimonial discord with her husband. We are therefore of the view that in order to prevent the abuse of law and secure the ends of justice, it is necessary to invoke powers U/Sec. 482 of the Code of Criminal Procedure and to quash the criminal proceedings to the extent of applicant nos.4 to 8. We therefore pass the following order :-

ORDER

I. The application of Applicant Nos.1 to 3 is disposed of as withdrawn.

II. The contents of FIR so far as making allegations against Applicant No.8 stands quashed as withdrawn.

III. The application of Applicant Nos.4 to 8 is allowed. Relief is granted to Applicant Nos.4 to 8 in terms of prayer clause (B-1).

IV. Rule is made absolute in those terms.

(V.L. ACHLIYA, J.)

[T.V. NALAWADE, J.]

sga/-