

SHRADDHA  
KAMLESH  
TALEKAR

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL WRIT PETITION NO. 193 OF 2020**

- |                                    |    |                 |
|------------------------------------|----|-----------------|
| 1) Sau. Mangala Ramdas Medhane,    |    |                 |
| Age – 38 years, Occ :- Household,  |    |                 |
| 2) Mr. Ramdas Karbhari Medhane,    |    |                 |
| Age-42 Years, Occ : Business,      |    |                 |
| 3) Mrs. Gayatri Ganesh Aringale    |    |                 |
| Age-33 Years, Occ : Household,     |    |                 |
| 4) Mr. Ganesh Dattatray Aringale,  |    |                 |
| Age-41 Years, Occ : Business,      |    |                 |
| 5) Mrs. Amruta Dhananjay           |    |                 |
| Arignale,                          |    |                 |
| Age-41 Years, Occ : Household,     |    |                 |
| Nos.3 to 5, all residing at        |    |                 |
| Laxmi Nagar, Kamatwade, Nashik     |    |                 |
| 6) Mr. Prakash Balasaheb Shelke,   |    |                 |
| Age-32 Years, Occ : Business,      |    |                 |
| 7) Mr. Sharad Waman Tambe          |    |                 |
| Age-36 Years, Occ : Agriculturist, |    | Petitioners     |
| Both R/a : Mhasrli, Tal. Igatpuri, | .. | (Orig. Accused) |
| Nashik                             |    |                 |

**Versus**

- |                                   |     |              |
|-----------------------------------|-----|--------------|
| 1) The State of Maharashtra       |     |              |
| (to be served through office of   |     |              |
| learned P. P. High Court,         |     |              |
| Mumbai)                           |     |              |
| 2) Mrs. Rohini Vikas Matale,      | ... |              |
| Age : 25 Years, Occ. : Housewife, |     | Respondents  |
| R/at : Ambika Nagar,              |     | (Orig.       |
| Kamatwade,                        |     | Complainant) |
| Tal. & Dist. : Nashik.            |     |              |

**WITH**  
**CRIMINAL APPLICATION NO. 1641 OF 2021**  
**(Permission for filing chargesheet)**  
**IN**  
**CRIMINAL WRIT PETITION NO. 193 OF 2020**

- |                                 |     |            |
|---------------------------------|-----|------------|
| 1. The State OF Maharashtra     | ]   | Applicant  |
| (Through Niphad Police Station, | ]   | (Orig.     |
| Nashik)                         | ].. | Respondent |
|                                 | ]   | No.1.)     |

**Versus**

- |                                    |     |                    |
|------------------------------------|-----|--------------------|
| 1) Sau. Mangala Ramdas Medhane,    | ]   |                    |
| Age – 38 years, Occ :- Household,  | ]   |                    |
| 2) Mr. Ramdas Karbhari Medhane,    | ]   |                    |
| Age-42 Years, Occ : Business,      | ]   |                    |
| 3) Mrs. Gayatri Ganesh Aringale    | ]   |                    |
| Age-33 Years, Occ : Household,     | ]   |                    |
| 4) Mr. Ganesh Dattatray Aringale,  | ]   |                    |
| Age-41 Years, Occ : Business,      | ]   |                    |
| 5) Mrs. Amruta Dhananjay           | ]   |                    |
| Arignale,                          | ]   |                    |
| Age-41 Years, Occ : Household,     | ]   |                    |
| Nos.3 to 5, all residing at        | ]   |                    |
| Laxmi Nagar, Kamatwade, Nashik     | ]   |                    |
| 6) Mr. Prakash Balasaheb Shelke,   | ]   |                    |
| Age-32 Years, Occ : Business,      | ]   |                    |
| 7) Mr. Sharad Waman Tambe          | ]   | Respondents/       |
| Age-36 Years, Occ : Agriculturist, | ]   | (Orig.             |
| Both R/a : Mhasrli, Tal. Igatpuri, | ].. | Petitioners/ Orig. |
| Nashik.                            | ]   | Accused)           |

**AND**

- |                                   |      |                 |
|-----------------------------------|------|-----------------|
| 1) Mrs. Rohini Vikas Matale,      | ]    | Formal          |
| Age : 25 Years, Occ. : Housewife, | ]    | Respondent      |
| R/at : Ambika Nagar,              | ]    | (Orig.          |
| Kamatwade,                        | ]    | Complainant/Ori |
| Tal. & Dist. : Nashik.            | ]... | g. Respondent   |
|                                   | ]    | No.2)           |

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Mr. Amey Deshpande for petitioners and for respondents in IA/1641/2021.

Mr. J.P. Yagnik, APP for State in WP/193/2020 and for applicant in IA/1641/2021.

Mr.Sachin Gite for respondent No.2.

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CORAM

: S.S. SHINDE &  
N.J. JAMADAR, JJ.

Reserved for Judgment on : 11<sup>TH</sup> AUGUST 2021

Judgment Pronounced on : 20<sup>th</sup> OCTOBER 2021

**JUDGMENT (PER N.J. JAMADAR, J.) :**

1. Rule. Rule made returnable forthwith and, with the consent of the counsels of the parties, heard finally.

2. This petition under Article 226 of the Constitution of India and section 482 of the Code of Criminal Procedure Code, 1973 ('the Code') is preferred to quash and set aside the FIR No. 274 of 2019, registered with Niphad Police Station, Nashik for the offences punishable under sections 323, 498-A, 504 and 506 read with 34 of the Indian Penal Code, 1860 ('the Penal Code'), lodged at the instance of respondent No.2-first informant.

3. The background facts leading to this petition can be summarized as under :-

a) The marriage of Mrs. Rohini Vikas Matala

(hereinafter referred to as 'the first informant') was solemnized with Vikas Balasaheb Matale, who is an Advocate, by profession, on 18<sup>th</sup> June 2018. Petitioner Nos.1 to 5 and 7 claimed to be the relatives of Vikas. Petitioner No.6 is the friend of Vikas. The petitioners have been arraigned alongwith Vikas, his parents and brothers.

(b) The gravamen of indictment against the accused is that, within weeks of the marriage, there was marital discord as the first informant noticed that the accused No.1 used to surreptitiously speak with a girl on phone. Upon being confronted, accused No.1 gave evasive answers and assaulted the first informant. When the accused No.1-Vikas had come to her paternal home to fetch the first informant back, he asked her to demand Rs.10 lakh from her father to acquire an office for his profession. The first informant expressed her inability to make such demand citing the huge expenses incurred by her father for the marriage.

(c) After a couple of days of her return to the

matrimonial home, the accused No.1, his parents and brothers abused and insulted her for not making the said demand. Enraged by the non-compliance of the demand, the accused No.1 dropped the first informant at her paternal home on 2<sup>nd</sup> November 2018. On 4<sup>th</sup> November 2018, her father and uncle brought her back to the matrimonial home and pacified her husband and in-laws.

(d) The first informant further alleged that the petitioner No.6-Prakash Shelke, the friend of the accused No.1 made a call to her father demanding the payment of Rs.10 lakh, lest accused No.1 would not allow the first informant to cohabit with him. When the first informant related the said incident to accused No.1, the latter assaulted her and made her to starve.

(e) On 9<sup>th</sup> November 2018, petitioner No.1-Sau. Mangala, her husband Ramdas- petitioner No.2, petitioner No.3-Gayatri, her husband Ganesh-petitioner No.4, petitioner No.5-Amruta and petitioner No.7 Sharad, the maternal cousin of accused No.1-Vikas

allegedly came to matrimonial home of the first informant on the occasion of Dipavali and threatened her to bring the amount of Rs.10 Lakh from her father lest she would face the consequences.

(f) The first informant further alleged that on 2<sup>nd</sup> January 2019, accused No.1-Vikas, his parents and brothers harassed her over her failure to met the demand of Rs.10 Lakh and she was turned out of the matrimonial home. She went to her paternal home along with her uncle Rangnath Date.

(g) On 9<sup>th</sup> January 2019, a meeting was held at the matrimonial home, in which relatives from both the sides were present. The first informant alleged that the accused reiterated demand of Rs.10 Lakh. The accused No.1 allegedly assaulted her and her mother-in-law Jijabai and sister-in-laws Mangala, Gayatri, Amruta, petitioner Nos.1, 3 and 5, respectively, relieved her of the gold ornaments. The rest of the petitioners intimidated her father, uncle and other relatives and turned them out of her matrimonial home.

(h) Thus, the first informant approached the Women Security Cell, Adgaon, Nashik Rural and made a complaint. An attempt was made to resolve the dispute. However, husband-Vikas flatly refused to resume co-habitation. Alleging that on account of extra-marital relations, Vikas refused to cohabit with her, the first informant approached the Niphad Police Station and lodged report on 27<sup>th</sup> October 2019, leading to FIR No. 274 of 2019.

4. In the backdrop of the aforesaid allegations, the petitioners have invoked the writ jurisdiction of this Court asserting that they have been roped in malafide. The petitioners have no role in the alleged matrimonial dispute between the accused No.1 and the first informant. On 9<sup>th</sup> January 2019, the first informant had left the matrimonial home, on her own, and there is an unexplained delay in lodging the FIR. This delay has led to embellishments and the petitioners, who are, in a sense, distant relatives, have been arraigned with an ulterior motive to wreak vengeance. The allegations in the FIR qua the petitioners are absurd and inherently improbable. Therefore, in order to secure the ends of justice, and

prevent the abuse the process of the Court, the FIR and the consequent proceedings qua the petitioners deserve to be quashed.

5. By an order dated 5<sup>th</sup> March 2020, while issuing notices to the respondents, this Court directed that the investigation may continue; however, charge-sheet shall not be filed.

6. The respondent No.1-State has filed Criminal Application No. 1641 of 2021 seeking permission to file the charge-sheet as the investigation has allegedly revealed the complicity of the accused.

7. In the wake of the aforesaid facts, we have heard Mr. Amey Deshpande, the learned counsel for the petitioners, Mr. Yagnik, the learned APP for the respondent No.1-State and Mr. Sachin Gite, the learned counsel for respondent No.2-first informant at length. With the assistance of the learned counsels for the parties, we have perused the material on record including the investigation papers tendered for the perusal of the Court by the learned APP.

8. Mr. Deshpande, the learned counsel for the petitioners strenuously submitted that the prosecution of the petitioners is manifestly attended with malafide. The first informant never alleged that the petitioners shared the matrimonial home with the first

informant and accused No.1. In fact, petitioner Nos.1 to 5 and 7, being the distant relatives of the husband of the first informant, could not have shared the matrimonial home with the first informant. Petitioner No.6 Prakash has been roped in maliciously for being the friend of the husband of the first informant. In law, petitioner No.6 does not fall within the ambit of the term “relative” and, consequently, he cannot be charged for the offence punishable under section 498A of the Penal Code.

9. Mr. Deshpande further submitted that on the own showing of the first informant, none of the petitioners were in the frame, when the first informant had approached the Women Security Cell, Adgaon, Nashik Rural and gave the statement on 22<sup>nd</sup> February 2019. Lastly, it was submitted that even if allegations in the first information report, qua the petitioners, are taken at their face value, no offence can be said to have been *prima-facie* made out against the petitioners, warranting their trial.

10. Per contra, Mr. Yagnik, the learned APP would urge that there are allegations in the FIR which squarely incriminate the petitioners. Those allegations find support in the statements of the witnesses recorded during the course of investigation. At this

juncture, according to Mr. Yagnik, the Court would not be justified in appreciating the veracity of those allegations. If the allegations in the FIR make out a *prima-facie* case, the truthfulness or otherwise thereof is a matter for trial, submitted Mr. Yagnik.

11. Mr. Sachin Gite, the learned counsel for respondent No.2-first informant submitted that petitioner Nos.1 to 5 and 7 are indisputably the relatives of accused No.1-Vikas. In the first information report, the respondent No.2 has made grave allegations against the petitioner Nos.1 to 5 and 7. In this view of the matter, according to Mr. Gite, no case for exercise of extraordinary jurisdiction is made out. Indeed, petitioner No.6 is the friend of accused No.1-Vikas. However, there are specific allegations against accused no.6 to bring his acts within the mischief of the penal provisions other than the offence punishable under section 498A of the Penal Code. Consequently, the FIR cannot be quashed against any of the petitioners, canvassed Mr. Gite.

12. The thrust of the submission on behalf of the petitioners is rested on the premise that the petitioners have been roped in for being the relatives of the husband of the first informant. It may

thus be apposite to note the relationship of the petitioner Nos.1 to 5 and 7 with the husband of the first informant.

13. The petitioner No.1-Mangala is the maternal cousin of Vikas, petitioner No.2-Ramdas is the husband of petitioner No.1. Petitioner No.3-Gayatri is the paternal cousin of Vikas. Petitioner No.4-Ganesh is the paternal cousin of Vikas. Petitioner No.5 - Amruta is the wife of paternal cousin of Vikas. Petitioner No.7-Sharad is the maternal cousin of Vikas. Indubitably, the petitioner No.6-Prakash is not a relative of accused No.1-Vikas, but a friend.

14. At this juncture, it may be apposite to immediately notice the gist of the allegations against the petitioners in the first information report. The allegations against petitioner Nos.1 to 5 and 7 are two fold. One, on 9<sup>th</sup> November 2019, the petitioner Nos.1 to 5 and 7 had been to the matrimonial house of the first informant, on the occasion of Dipavali, and they also threatened the first informant to bring a sum of Rs.10 lakh from her father lest she would not be treated well, at her matrimonial home. Two, on 9<sup>th</sup> January 2019, during the course of the meeting held to resolve the matrimonial discord, the petitioner No.1-Mangala, petitioner No.3 Gayatri and petitioner No.5 Amruta joined her mother-in-law

Jijabai-accused No.3, in relieving her of the gold ornaments. Thereafter, the petitioner No.4-Ganesh, petitioner No.2-Ramdas, petitioner No.7-Sharad intimidated her, her father and relatives and turned them out of her matrimonial home.

15. It would be contextually relevant to note that in addition to the aforesaid allegation of intimidation in the meeting dated 9<sup>th</sup> January 2019, the petitioner No.6-Prakash is attributed with the role of having made a demand of Rs.10 Lakh to the father of the first informant to finance the setting up of an office for Vikas at Nashik.

16. Mr. Deshpande, the learned counsel for the petitioners, in context of the aforesaid allegations, submitted that the respondent No.2 had not at all named the petitioners in the statement before the Women Security Cell, recorded on 22<sup>nd</sup> February 2019. Laying emphasis on the allegations in the said complaint, which are primarily against Vikas, Mr. Deshpande strenuously urged that the petitioners have been roped in to spite them, after deliberation.

17. We have perused the statement, dated 22<sup>nd</sup> February 2019, which has been furnished under the Right to Information Act,

2005. Indeed the allegations are primarily against Vikas. First, Vikas had an affair with another girl and his marriage was solemnized with respondent No.2, against his wish. Despite marriage, the said liaison continued and Vikas harassed the respondent No.2. To cover up the said misdemeanor, Vikas falsely alleged that the respondent No.2 had an affair with her paternal cousin and thus suspected her fidelity. Second, Vikas made a demand of Rs.10 Lakh to set up an office. For non-fulfillment of the said demand, the respondent No.2 was made to leave the matrimonial home on 26<sup>th</sup> July 2018.

18. As regards the meeting dated 9<sup>th</sup> January 2019, in the statement dated 22<sup>nd</sup> February 2019, the respondent No.2 asserted that, despite efforts on the part of her parents and relatives, Vikas and her in-laws refused to allow her to resume cohabitation. When her father left her at the matrimonial home and went away, the relatives of Vikas and his neighbours allegedly abused them. Vikas threw away her bag and relieved her of the gold and silver ornaments and turned her out of the matrimonial home forcibly. A cousin of her father-in-law brought the respondent No.2 to her paternal home.

19. The aforesaid statement does not form part of the investigation papers. However, there is a copy of a written complaint, dated 18<sup>th</sup> January 2019, which forms part of the investigation papers. In the said complaint, dated 18<sup>th</sup> January 2019, though the first informant has named the petitioners herein, yet they are not in the frame till 9<sup>th</sup> January 2019. The allegations are against Vikas, in particular, and his parents and brothers, in general. On 2<sup>nd</sup> January 2019 itself, the accused Nos.1 to 5, i.e., Vikas, his parents and brothers, allegedly abused, assaulted and turned the respondent No.2 out of her matrimonial home and relieved her of gold and silver ornaments. On 9<sup>th</sup> January 2019, the petitioners herein were present when discussions were held to resolve the matrimonial dispute. On that day also, Vikas had allegedly assaulted the respondent No.2 and turned her out of the matrimonial home. There is a general allegation that the accused, including the petitioners, threatened the respondent No.2 not to return to the matrimonial home lest she will face dire consequences.

20. Evidently, on the basis of the aforesaid complaint, dated 18<sup>th</sup> January 2019, action was initiated at Women Security Cell, to

resolve the matrimonial dispute, amicably. It seems, on 22<sup>nd</sup> February 2019, the aforesaid statement was recorded. Though the said statement dated 22<sup>nd</sup> February 2019 does not form part of the investigation paper, yet, the fact that its copy was furnished under Right to Information Act, 2005, could not be disputed. Moreover, the said statement appears to have been recorded during the course of the inquiry at Women Security Cell.

21. The situation which thus obtains is that in the complaint dated 9<sup>th</sup> January 2018, lodged against the petitioners as well, there are no allegations of either making unlawful demand of property on 9<sup>th</sup> November 2019, when the petitioners allegedly visited her matrimonial home on the occasion of Dipavali or relieving the first informant of the gold and silver ornaments on 9<sup>th</sup> January 2019. Likewise, in the statement of the first informant recorded on 22<sup>nd</sup> February 2019, the aforesaid allegations are conspicuous by their absence qua the petitioners. In contrast, there are allegations against Vikas and his parents and brothers of abusing, assaulting and turning the first informant out of matrimonial home, after relieving her of the gold and silver ornaments on 9<sup>th</sup> January 2019, in the written complaint dated 18<sup>th</sup> January 2019. Whereas, in the statement dated 22<sup>nd</sup> February

2019, the said role of relieving her of the ornaments is attributed to Vikas alone.

22. The aforesaid factor is required to be considered in juxtaposition with incontrovertible position that the petitioners did not share the matrimonial home with the first informant. Petitioner Nos. 1 to 5 and 7 are not the immediate relatives of the husband of the first informant. The petitioner No.6 is, indisputably, a friend of Vikas.

23. At this juncture, the question of the scope of inquiry while considering the prayer for quashment of a prosecution, especially under section 498A of the Penal Code, comes to the fore. There can be no duality of opinion on the point that the inherent powers of the High Court are preserved with the avowed object of preventing the abuse of the judicial process and securing the ends of justice. High Court would be justified in quashing a proceeding if it comes to the conclusion that allowing the proceedings to continue would be an abuse of the process of the Court or that the ends of justice would be sub-served by quashing the proceedings. The powers of the High Court under Article 226 of the Constitution and section 482 of the Code of Criminal Procedure, 1973 are of wide amplitude.

However, this very plenitude of the power brings in the element of circumspection, and exercise in deserving cases only. Thus, the test that is usually applied is whether the allegations in the first information report/charge-sheet, even if they are taken on their face value and accepted in their entirety, do not *prima-facie* make out the offences for which the petitioners have been arraigned? If the answer is in the negative, further inquiry is not warranted. The High Court is not expected to delve into evaluation of the material to ascertain its veracity or otherwise.

24. A profitable reference, in this context, can be made to a three Judge Bench judgment of the Supreme Court in the case of ***Bhaskar Lal Sharma & Anr. Vs. Monica & Ors.***<sup>1</sup> wherein, in the context of the prosecution under section 498A of the Penal Code, the scope of inquiry for quashment of the proceedings was expounded. Paragraph Nos. 10 and 11 read as under :-

*“10. We disagree. ‘Cruelty’ as defined in the Explanation to [Section 498A](#) of the Penal Code has a twofold meaning. The contentions of Shri Sharan do not deal with the Explanation (a) and is exclusively confined to the meaning dealt with by Explanation (b). Under Explanation (a) conduct which is likely to cause injury or danger to life, limb or health (mental or physical) would come within the meaning of the expression “cruelty”. While instances of physical torture would be plainly evident from the pleadings, conduct which has caused or is likely to cause mental*

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1 (2014) 3 SCC 383

*injury would be far more subtle. Having given our anxious consideration to the averments made in the complaint petition, we are of the view that the statements made in the relevant paragraphs of the complaint can be understood as containing allegations of mental cruelty to the complainant. The complaint, therefore, cannot be rejected at the threshold.*

11. *The facts, as alleged, therefore will have to be proved which only be done in the course of a regular trial. It is wholly unnecessary for us to embark upon a discourse as regards the scope and ambit of the Court's power to quash a criminal proceeding. The appreciation, even in a summary manner, of the averments made in a complaint petition or FIR would not be permissible at the stage of quashing and the facts stated will have to be accepted as they appear on the very face of it. This is the core test that has to be applied before summoning the accused. Once the aforesaid stage is overcome, the facts alleged have to be proved by the complainant/prosecution on the basis of legal evidence in order to establish the penal liability of the person charged with the offence.*

(emphasis supplied)

25. On the aforesaid touchstone, revering to the facts of the case, in our view, the absence of the allegations against the petitioners in the complaint in writing dated 18<sup>th</sup> January 2019, and the statement of the first informant dated 22<sup>nd</sup> February 2019, is a factor which materially bears upon the question as to whether the allegations in the FIR qua the petitioners even if taken, as they stand, *prima-facie* make out the offences. On the one hand, the written complaint dated 18<sup>th</sup> January 2019 and the statement of the first informant dated 22<sup>nd</sup> February 2019, were more proximate

to the date of occurrence, i.e. 9<sup>th</sup> January 2019, when efforts were made to amicably resolve the matrimonial dispute. On the other hand, the time lag of about 11 months in lodging the report from the said occurrence, brings in the element of embellishment and afterthought.

26. At this stage, the aspect of the general tendency of roping in the relatives of the husband, who may not have any role to play in the alleged harassment of the women, wrenches to the fore. It is judicially recognized that in the wake of marital discord, the allegations are made thick and fast. There is a tendency to rope in as many persons from the family of the husband as possible irrespective of their involvement in the alleged harassment. In the face of such a situation, two considerations, equally weighty, inform the decision. On the one hand, the law must sternly deal with the matrimonial cruelty. On the other hand, there is an abiding public interest in ensuring that the relatives of the husband, who have no concern with the matrimonial dispute and its aftermath, are not prosecuted for the only reason that they happen to be the relatives of the husband. The situation becomes even more accentuated when the petitioners are not immediate

relatives.

27. A useful reference, in this context, can be made to a judgment of the Supreme Court in the case of ***Preeti Gupta & Anr. Vs. State of Jharkhand & Anr.***<sup>2</sup>, wherein the following observations were made :

*“32 It is a matter of common experience that most of these complaints under section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.*

.....

*35 The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection.”*

(emphasis supplied)

28. In the case of ***Ramesh and Ors. Vs. State of T.N.***<sup>3</sup>, where the allegations were made against the married sister of the informant's husband, who did not share the matrimonial home

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<sup>2</sup> (2010) 7SCC 667

<sup>3</sup> (2005) 3 SCC 507

with the first informant, the Supreme Court observed that the bald allegations made against the sister-in-law seem to suggest the anxiety of the informant to rope in as many of the husband's relations as possible.

29. The aforesaid pronouncement was followed by the Supreme Court in the case of ***Geeta Mehrotra & Anr. Vs. State of Uttar Pradesh & Anr.***<sup>4</sup>. In the facts of the said case, the Supreme Court observed as under :-

*“20 Coming to the facts of this case, when the contents of the FIR is perused, it is apparent that there are no allegations against Kumari Geeta Mehrotra and Ramji Mehrotra except casual reference of their names who have been included in the FIR but mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specially if it happens soon after the wedding.”*

(emphasis supplied)

30. In a recent pronouncement in the case of ***K. Subba Rao & Ors. Vs. The State of Telangana, Rep. Its Secretary, Department of Home & Ors.***<sup>5</sup>, the Supreme Court again administered a note of

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4 (2012) 10 SCC 741

5 Cri. Appeal No.1045 of 2018

(Arising out of SLP (Crl.) No.3286 of 2016) dt. 21<sup>st</sup> August 2018

caution, in the following words :

*“The Courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out.”*

(emphasis supplied)

31. In the backdrop of the aforesaid exposition of law, readverting to the facts of the case, in our considered view, the implication of the petitioners herein for the offences punishable under sections 323, 498-A, 504 and 506 read with 34 of the Penal Code is actuated by a design to harass and humiliate the petitioners for the sole reason that the petitioner Nos. 1 to 5 and 7 happened to be the relatives of Vikas.

32. The prosecution qua petitioner No.6 stands on an even weaker foundation. Indisputably, the petitioner No.6 does not fall within the ambit of the term “relative” used in section 498A. In the case of *U. Suvetha Vs. State by Inspector of Police & Anr.*<sup>6</sup>, the import of the term “relative” was expounded as under :

*“10. In the absence of any statutory definition, the term “relative” must be assigned a meaning as is commonly understood. Ordinarily it would include father, mother, husband or wife, son, daughter,*

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<sup>6</sup> (2009) 6 SCC 757

*brother, sister, nephew or niece, grandson or granddaughter of an individual or the spouse of any person. The meaning of the word "relative" would depend upon the nature of the statute. It principally includes a person related by blood, marriage or adoption."*

33. Fully mindful of the limited nature of the inquiry, we may indicate the reasons which impel us to take the aforesaid view. First and foremost, the petitioner Nos. 1 to 5 and 7 did not appear to be immediate relatives of Vikas. Second, they did not share the matrimonial home at any point of time. Thirdly, there is a bald allegation in the first information report that the petitioners had also made an unlawful demand of Rs.10 Lakh on 9<sup>th</sup> November 2018, when they visited the matrimonial home of the first informant on the occasion of Dipavali. This allegation lacks the element of certainty and authorship. Even if taken at par, this allegation would fall in the realm of "demand" only. There are no allegations to the effect that the petitioners subjected the first informant to cruelty in order to coerce her to meet the demand. Fourthly, contemporaneous complaint dated 18<sup>th</sup> January 2019 and the proximate statement dated 22<sup>nd</sup> February 2019, do not attribute the said role to the petitioners. Fifthly, in the first information report, as regards the incident dated 9<sup>th</sup> January 2019, a general allegation is made against Mangala, Gayatri, Amruta, petitioner

Nos.1, 3 and 5, respectively, that, alongwith mother-in-law, of the first informant, the petitioner Nos.1, 3 and 5 relieved the first informant of the gold ornaments. Again, the contemporaneous complaint in writing and the proximate statement do not attribute the said role to the petitioner Nos. 1, 3 and 5. Conversely, the said role is attributed to Vikas, his parents and brothers, in the complaint dated 18<sup>th</sup> January 2019, and to Vikas alone in the statement dated 22<sup>nd</sup> February 2019.

34. In the totality of the circumstances, allowing the prosecution of the distant relatives and friend of the husband of the first informant, when the material on record does not indicate nay rules out their involvement, would amount to grave injustice. We are, thus, inclined to hold that in the facts of the case, it would be necessary to quash the FIR and the consequent proceedings arising out of the said FIR qua the petitioners as its continuation would amount to abuse of the judicial process and the quashment would serve the ends of justice.

35. Hence, the following order :

#### **O R D E R**

- (i) The petition stands allowed.

(ii) The first information report No. 274 of 2019 and the consequent proceeding arising out of the said FIR stand quashed qua the petitioners.

(iii) The Investigating Officer is, however, at liberty to lodge the charge-sheet against Vikas and his parents and brothers.

(iv) By way of abundant caution, we clarify that the case against Vikas and rest of the accused shall proceed uninfluenced by any of the observations made hereinabove, which are confined to the consideration of the question of quashment of the proceeding against the petitioners.

Rule made absolute in the aforesaid terms.

In view of the disposal of the petition, Criminal Application No. 1641 of 2021 also stands disposed of, with liberty to the Investigating Officer to proceed against Vikas and the rest of the accused.

[ N.J. JAMADAR, J. ]

[ S. S. SHINDE, J.]