

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

CRIMINAL APPLICATION NO. 517 OF 2020

1. Vijayalaxmi Dineshchandra @
Balasaheb Aragade
Age – 53 years, Occu. –
R/at B-1503, Shreeji Heights Chs Ltd.,
Plot No.1A, B, C Sec.46-A, Seawoods,
Navi Mumbai
 2. Dineshchandra @ Balasahbe
Shankarrao Argade,
Age : 60 yrs. Occu. -
R/at Flat No.605, “A” Building,
Deshpande Durg, ICS Colony,
Pune 411 007
 3. Mrs. Sonal @ Bhagyashri Rupesh Gund
Age : 31 yrs. Occu. Housewife
R/at Plot No.107/B, Varad Villa, Rao
Colony, Talegaon Dabhade, Taluka
Maval, Dist Pune 410 506
 4. Mrs. Mrudula Yogesh Bhagat
Age : 30 yrs. Occ : Housewife
Add. SN/60/A/2/1B, Ganga Melrose,
A502, B. T. Kawade Road Near Mid Town
Society, Ghorpadi Gaon, Pune 411 001
- ...Appellants**

Versus

1. The State of Maharashtra
(At the instance Khadaki Police Station,
Pune City)
 2. Pradnya Diraj Argade
Age 30 years, Occu. Nil
Pandurang Niwas, Survey No.112,
Sutarwadi, Pashan, Khadaki, Pune City.
- ...Respondents**

Mr. Vijay Patil, i/b Ms. Manisha Devkar, for the Appellants.
Mr. Abhijeet Desai, i/b Desai Legal, for respondent no.2.
Mr. S. R. Shinde, APP for the State.

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

RESERVED ON: 18th AUGUST, 2021.

PRONOUNCED ON: 20th OCTOBER, 2021.

JUDGMENT:- [PER : N. J. JAMADAR, J.]

1. Rule. Rule made returnable forthwith, and with the consent of the Counsels for the parties, heard finally, at the stage of admission.

2. By virtue of this application under Section 482 of the Code of Criminal Procedure, 1973 ("the Code") the applicants, who are the relatives of the husband of respondent no.2 - the first informant, seek the quashment of First Informant Report No.351 of 2020 ("FIR") registered with Khadaki Police Station, Pune, for the offences punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code"), at the instance of the respondent no.2 - the first informant, qua the applicants.

3. The background facts can be stated in brief as under:

(a) The marriage of the first informant - Pradnya was solemnized with Dheeraj (A1) on 29th November, 2009. Applicant no.2 - Dineshchandra is the father of Dheeraj (A1). Applicant no.3 - Sonal and applicant no.4 - Mrudula are the married sisters of Dheeraj (A1). Applicant no.1 - Vijayalaxmi is the mother of Dheeraj (A1). The marriage of applicant nos.1 and

2 was solemnized in the year 2010, post the marriage of the first informant and Dheeraj (A1).

(b) The applicants aver that Dheeraj (A1) and the first informant were not at all happy with the marriage of applicant nos.1 and 2 and, thus, applicant nos.1 and 2 resided separately from the accused nos.1 and the first informant, since beginning of the marital life of applicant nos.1 and 2. According to the applicants, the marital life of the first informant and Dheeraj (A1) was afflicted with discord since inception as the first informant entertained a strong suspicion that Dheeraj (A1) had extramarital affairs. However, the applicants had no occasion to be part of, much less interfere with, the matrimonial life of Dheeraj (A1) and the first informant. Applicant nos.3 and 4, who are the married sisters of accused no.1 never resided with Dheeraj (A1) and the first informant. All the applicants have been residing separately from Dheeraj (A1) and the first informant. As the marital discord had been continual and reached its peak in the year 2020, the applicants have been roped in with an oblique motive.

(c) The applicants assert that false and baseless allegations have been made against the applicants for the only reason that they are the relatives of Dheeraj (A1) so as to bring

Dheeraj (A1) and the applicants to terms. In the backdrop of the sound financial position of applicant no.2, there was no cause or occasion for applicant no.2 to make the alleged unlawful demand. Nor applicant no.1, who entered the family frame, as the second wife of applicant no.2, after the marriage of Dheeraj (A1) and the first informant, had ever played the role attributed to her by the first informant. In the backdrop of the allegations in the FIR, according to the applicants, no *prima facie* case is made out for the offences for which the applicants have been arraigned. In such circumstances, the applicants cannot be compelled to undergo the rigours of trial. It would amount to abuse of the process of the Court. Hence this application for quashment of the FIR and the consequent proceedings.

4. We have heard Mr. Vijay Patil, the learned Counsel for the applicants, Mr. S. R. Shinde, the learned APP for the State and Mr. Abhijeet Desai, the learned Counsel for the first informant/respondent no.2, at length. With the assistance of the learned Counsels for the parties, we have perused the material on record.

5. Before we advert to note the rival submissions canvassed across the bar, we deem it appropriate to notice the gravamen of

indictment, especially against the applicants, as borne out by the allegations in the FIR.

I] The tenor of the FIR is that, post marriage, the initial cause of the discord between Dheeraj (A1) and the first informant was the alleged neglect on the part of Dheeraj (A1). The first informant alleged that Dheeraj (A1) returned home late, spent unreasonably long time on mobile phone and chatting etc., and abused and assaulted her, when she questioned Dheeraj (A1). Applicant nos.1 and 2 did not intervene despite grievances having been made to them. The first informant further alleged that, after few months of marriage, Dheeraj (A1) and applicant no.2 demanded her to bring money from her father on one or the other pretext. Few demands were met. Emboldened Dheeraj (A1) and applicant no.2 demanded the first informant to bring an amount of Rupees One Crore from her father to purchase land and a Mercedes car. Upon her failure to meet the said demand, Dheeraj (A1) allegedly abused, assaulted and attempted to throttle her. In the year 2014, her father paid an amount of Rs.10,00,000/- (Rupees Ten Lakhs) to Dheeraj (A1).

II] The first informant further alleged that, despite passage of time, there was no improvement in the behaviour of Dheeraj

(A1). The latter continued to indulge in intoxication and return home late. When the first informant remonstrated, Dheeraj (A1) beat her. Applicant no.2 also did not pay heed to the complaints of the first informant regarding the extramarital affairs of Dheeraj (A1). Instead, applicant no.2 attempted to justify such dalliance. The first informant alleged that even applicant nos.1, 3 and 4 did not make effort to rein in Dheeraj (A1) despite grievances being made before them. On the contrary, applicant no.4 Mrudula threatened the first informant not to raise such issues. She was insulted by applicant nos.1, 2 and 3 for not begetting the child. On 16th April, 2020, applicant no.3 Sonal had allegedly come to reside with the first informant and Dheeraj (A1). When the first informant complained about the promiscuous behaviour of Dheeraj (A1), applicant no.3 instead of prevailing upon Dheeraj (A1) to behave himself, tried to justify his misconduct and again insulted her for not begetting the child.

III] The first informant further alleged that on 1st June, 2020, accused no.1 assaulted her on the count that she did not cook food for his friend, who had come to their house for drinks, and turned her out of the matrimonial home. Her father and father-in-law, applicant no.1, came thereat, and they approached the

Khadaki Police Station and lodged NC complaint. Enraged by the reporting of the matter to police, Dheeraj (A1) refused to allow the first informant rejoin the matrimonial home despite efforts by relatives and well-wishers. Hence, the first informant approached the Bharosa Cell (Grievance Redressal Cell) at the office of Commissioner of Police, Pune. However, Dheeraj (A1) and his relatives did not appear for counseling. Hence, the first informant lodged the report on 29th October, 2020 leading to CR No.351/2020.

6. In the backdrop of the aforesaid nature of the allegations against the applicants, Mr. Patil, the learned Counsel for the applicants advanced multi-fold submissions. First and foremost, the allegations in the FIR taken at their face value and in their entirety, do not make out the offence punishable under Section 498A of the Penal Code qua the applicants. Secondly, in the face of an indisputable position that the applicants have been residing separately from respondent no.2 and her husband, since many years, the allegations of matrimonial cruelty against the applicants are simply absurd and improbable. Thirdly, from the tenor of the allegations in the FIR, it becomes clear that the thrust of the grievance is against the husband, Dheeraj (A1). Fourthly, according to Mr. Patil the instant FIR is but another

instance of roping in the family members of the husband in the wake of the matrimonial discord, for no rhyme or reason. Lastly, the time-lag of almost 11 years from the date of marriage erodes the potency of the allegations against the applicants, even if those allegations are taken at par. Continuation of the proceedings on the basis of such allegations, according to Mr. Patil, would cause grave injustice to the applicants.

7. Per contra, Mr. Shinde, the learned APP, would urge that there are clear and categorical allegations against the applicants. The first informant has alleged in no uncertain terms that even applicant no.2 had made unlawful demand of property. Part of the demand was met. Moreover, there are allegations to the effect that the applicants instead of supporting the first informant, took the side of Dheeraj (A1), even where grave allegations of abuse, harassment under the influence of liquor, and extramarital dalliance were made. The said conduct on the part of the applicants, according to Mr. Shinde, would fall within the ambit of matrimonial cruelty under Clause (a) of the Explanation to Section 498A of the Penal Code.

8. Mr. Desai, the learned Counsel the first informant, also forcefully countered the submissions on behalf of the

applicants. Taking the Court through the allegations in the FIR, Mr. Desai made an endeavour to demonstrate that there are specific allegations against each of the applicants. The claim of the applicants that they have been residing separately from Dheeraj (A1) and the first informant was stated to be sans any material in justification thereof. Mr. Desai further urged that, at this juncture, the truthfulness or otherwise of the allegations cannot be delved into. The inquiry is limited to ascertain the existence of allegations which *prima facie* make out the offences arraigned against the applicants. According to Mr. Desai, the allegations in the FIR, make out the offences against all the applicants and, therefore, this Court would not be justified in interjecting the prosecution at this stage, when the investigation is still underway. Mr. Desai would urge that the period of 10 long years for which the first informant suffered harassment at the hands of her husband and the applicants cannot be construed against the first informant. On the contrary, it shows a continual case of harassment of a married woman.

9. We have given our anxious consideration to the rival submissions.

10. To begin with, it is necessary to note that from the perusal of the allegations in the FIR, which we have noted in a little

detail, it becomes evident that the allegations are primarily against Dheeraj (A1). The moot cause for the matrimonial discord was the alleged licentious and promiscuous conduct of Dheeraj (A1). Ill-treatment was allegedly meted out to the first informant when she questioned and resisted the alleged promiscuous conduct of Dheeraj (A1). In addition, the first informant alleged that Dheeraj (A1) made unlawful demand of money. The demands were met on few occasions. However, unsatiated Dheeraj (A1) continued to make unlawful demand of money and harassed the first informant.

11. In the context of the prayer for quashment, qua the applicants, it would be necessary to note the allegations attributed to the applicants. The broad allegations against the applicants are:

Applicant No.2:

(i) After few months of marriage applicant no.2 joined Dheeraj (A1) in making unlawful demand of money. Applicant no.2 and Dheeraj (A1) allegedly made a demand of Rupees One Crore to purchase the land and a Mercedes car.

(ii) The first informant further alleged that Dheeraj (A1) and applicant no.2 raked up quarrels with her, and abused her for not meeting the unlawful demand of money. Applicant no.2 did

not pay heed to the complaints of the first informant regarding the licentious and promiscuous conduct of Dheeraj (A1) and threatened the first informant not to raise the said issue.

Applicant No.1:

(iii) As regards applicant no.1, there are two allegations. One, applicant no.1 abused the first informant by deliberately picking up faults in the food cooked by the first informant. Two, in one of the such quarrels, over cooking the food, applicant no.1 had allegedly slapped the first informant.

Applicant No.4:

(vi) Whenever applicant no.4 visited the matrimonial home of the first informant, she abused the first informant over the household work and humiliated her by stating that there must be some defect in her and, thus, she could not conceive. At another occasion, when Dheeraj (A1) had returned home late in an intoxicated state, even upon being complained against the applicant nos.1, 3 and 4 did not take the side of the first informant. On the contrary, applicant no.4 intimidated her, and humiliated for not begetting the child.

Applicant No.3:

(v) As against applicant no.3, the first informant alleged that on 16th April 2020, applicant no.3 had been to her matrimonial

home. When the first informant related to applicant no.3 that the cruelty perpetrated by Dheeraj (A1) has become unbearable, applicant no.3 Sonal justified the behaviour of Dheeraj (A1) and insulted her for not begetting child.

12. In the backdrop of aforesaid nature of the accusations, qua the applicants, the crucial question which comes to the fore is whether the aforesaid allegations, even if taken at par, would warrant the prosecution of one or more of the applicants. Cruelty under Section 498A of the Penal Code has a definite legal connotation. Undoubtedly, the Explanation to Section 498A, expands the scope of matrimonial cruelty. It is not restricted to physical cruelty. The element of mental cruelty, which often has a more deleterious impact on the mind of a married woman, is subsumed in the definition of cruelty.

13. It is trite, ordinary quarrels, difference of views and wear and tear of life, which every home invariably witnesses, do not fall within the mischief of cruelty punishable under Section 498A of the Penal Code. To fall within the dragnet of Section 498A, the illtreatment meted out to a married women ought to be of the specified nature. Thus, to fall within the tentacles of Section 498A, the married woman must have been subjected to cruelty, which would drive the woman to commit suicide or to

cause grave injury or danger to her life, limb or health, or with a view to coerce her or any person related to her to meet an unlawful demand of property. In the latter case, mere demand of money or property, unaccompanied by any harassment, may not fall within the mischief of Section 498A of the Penal Code. There has to be a nexus between the unlawful demand and the consequent harassment.

14. At this juncture, a profitable reference can be made to a Three Judge Bench Judgment of the Supreme Court in the case of *Bhaskarlal Sharma and another vs. Monica and others*¹ for two purposes. First, in the said case, the Supreme Court expounded the import of 'cruelty' envisaged by Section 498A of the Penal Code. Second, the Supreme Court indicated the scope of inquiry while considering the prayer for quashment. The observations in paragraphs 9 to 11 are instructive and, hence, extracted below:

"9. Shri Amarendra Sharan, learned senior counsel for the appellants has urged that the statements/averments made in the complaint petition, even if taken to be correct, do not make out any offence against any of the accused appellants either under Sections 498A or 406 of the Penal Code, as alleged. Shri Sharan has laid stress on the fact that there is no averment in the complaint petition with regard to any demand for dowry by the appellants; or of any ill-treatment of the respondent by the appellants or commission of any act in connection with any such demand which could amount to 'cruelty' within the meaning of Section 498A IPC. Shri Sharan has also urged that no where in the complaint petition entrustment within the meaning of Section 405 of

1 (2014) 3 SCC 383.

the Penal Code has been alleged against the appellants so as to even prima facie make the appellants liable for the offence under Section 406 of the Penal Code.

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 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. 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)

15. In the light of the aforesaid enunciation of the legal position, readverting to the facts of the case, in our view, the allegations against applicant no.2, on the one part, and applicant nos.1, 3 and 4, on the other part, stand on a different footing. As against applicant no.2, there are allegations of making unlawful demand of money along with Dheeraj (A1).

Whereas the allegations against applicant nos.1, 3 and 4 are relatable to clause (a) of the Explanation to Section 498A.

16. As regards applicant nos.3 and 4 the centrality of the allegation is that they harassed the first informant when they visited her matrimonial home. A fair reading of the FIR, in its entirety, does not indicate even remotely that the applicant nos.3 and 4 were residing with Dheeraj (A1) when the first informant entered the matrimonial home. Nor any allegations are made against applicant nos.3 and 4, which have an element of proximity to the date of marriage. An inference thus becomes inescapable that applicant nos.3 and 4, the married sisters of Dheeraj (A1), have all along been residing separately from the first informant and Dheeraj (A1).

17. As indicated above, the first informant endeavoured to agitate her grievances about the alleged licentious and promiscuous conduct of Dheeraj (A1). The allegations against applicant nos.3 and 4 are that they did not make effort to rein in Dheeraj (A1). At the highest, applicant nos.3 and 4, allegedly justified such unprincipled behaviour of Dheeraj (A1). This allegation, even if taken at par, does not fall within the dragnet of Clause (a) of the Explanation to Section 498A. Applicant nos.3 and 4 might have failed to exercise sobering influence, as

sisters, over Dheeraj (A1). However, the said omission hardly amounts to mental cruelty emanating from applicant nos.3 and 4.

18. Apart from the aforesaid grievance, applicant no.4 had allegedly once abused the first informant over the household work, and applicant nos.3 and 4 had insulted the first informant for not begetting the child. In our view, these allegations are required to be considered in the entirety of the setting of the matter. The shared marital life is of about 11 years. Viewed through this prism, the allegations appear stray and lack the element of certainty. Even otherwise, the allegations do not have the propensity to fall within the meaning of mental cruelty envisaged by Clause (a) of the Explanation to Section 498A.

19. The case against applicant no.1 stands on a much weaker foundation. Applicant no.1 had allegedly picked up quarrel with the first informant and abused her over the quality of food cooked by the first informant. The two instances, attributed to applicant no.1, over the span of the decade long marital life of the first informant with Dheeraj (A1), by no stretch of imagination, can be construed as such willful conduct which would drive the married woman to commit suicide or cause

injury or danger to her life or limb. These quarrels between the first informant and applicant no.1 do not traverse beyond the ordinary wear and tear of the marital life.

20. At this stage, the submission on behalf of the applicants that they have been roped in *mala fide* and to wreck vengeance for being the relatives of Dheeraj (A1), warrants consideration. It is judicially recognized that there is a tendency to rope in as many persons from the family of the husband as possible *de hors* their involvement in the alleged harassment. Often, in the wake of marital discord, the allegations fly thick and fast. In the anxiety to bring the husband to justice, for the alleged acts of ill-treatment and harassment, it is often seen, attempts are made to rope in as many of the husband's relations as possible. The Courts are required to be on guard against the unwarranted prosecution of the relations of the husband, who have had no role in the matrimonial dispute and the consequent cruelty.

21. 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.*², 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)

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

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

3 (2005) 3 SCC 507

4 (2012) 10 SCC 741

“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)

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

25. A useful reference can also be made to the judgment of the Supreme Court in the case of *Rashmi Chopra vs. State of U.P. and another*⁶ on which a strong reliance was placed by the learned Counsel for the applicants.

26. Mr. Patil laid emphasis on the following observations in paragraphs 24 and 25 of the said judgment:

“24. Coming back to the allegations in the complaint pertaining to Section 498A and Section 3/4 of D.P. Act. A perusal of the complaint indicates that the allegations

5 Cri. Appeal No.1045 of 2018

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

6 AIR 2019 Supreme Court 2297.

against the appellants for offence under Section 498A and Section 3/4 of D.P. Act are general and sweeping. No specific incident dates or details of any incident has been mentioned in the complaint. The complaint having been filed after proceeding for divorce was initiated by Nayan Chopra in State of Michigan, where Vanshika participated and divorce was ultimately granted. A few months after filing of the divorce petition, the complaint has been filed in the Court of C.J.M., Gautam Budh Nagar with the allegations as noticed above. The sequence of the events and facts and circumstances of the case leads us to conclude that the complaint under Section 498A and Section 3/4 of D.P. Act have been filed as counter blast to divorce petition proceeding in State of Michigan by Nayan Chopra.

25. There being no specific allegation regarding any one of the applicants except common general allegation against everyone i.e. "they started harassing the daughter of the applicant demanding additional dowry of one crore" and the fact that all relatives of the husband, namely, father, mother, brother, mother's sister and husband of mother's sister have been roped in clearly indicate that application under Section 156(3) Cr.P.C. was filed with a view to harass the applicants. Further, prior to filing of the application under Section 156(3) Cr.P.C. there was no complaint at any point of time by the girl or her father making allegation of demand of any dowry by any one of the applicants. When both Nayan Chopra and Vanshika started living separately since November, 2013, had there been any dowry demand or harassment the girl would have given complaint to Police or any other authority....."

27. It was urged by Mr. Patil that as the marital bond between the first informant and Dheeraj (A1) is strained to the point of breakdown, the first informant has falsely roped in the applicants.

28. We have analyzed the allegations qua each of the applicants. So far as applicant nos.1, 3 and 4, on a bare perusal of the FIR, in the backdrop of the time-lag between commencement of the marital relationship between the first informant and Dheeraj (A1) and the fact that applicant nos.3

and 4 have been residing separately all along, we are of the considered view that their implication is an instance of the aforesaid anxiety to drag the relations of the husband. This factor, if considered in conjunction with the bald, vague and general allegations against the applicant nos.1, 3 and 4, leads to an irresistible inference that the initiation of the prosecution against applicant nos.1, 3 and 4 was actuated by a design to harass them and exert pressure upon Dheeraj (A1) to come to terms. In the light of the situation which thus obtains, it would be plainly unjust to compel the applicant nos.1, 3 and 4 to face rigours of investigation and likely prosecution for the offences for which they have been arraigned. It would amount to abuse of the process of the Court. Conversely, the interest of the justice would be secured by quashing the proceeding against applicant nos.1, 3 and 4.

29. As against applicant no.2, indicated above, apart from the allegations of not paying heed to the first informant's complaints against the promiscuous conduct of Dheeraj (A1) and, at times, justifying such behaviour, there are clear allegations of making unlawful demand of money. There are allegations to the effect that there were unlawful demands of money on multiple occasions. The first informant has specifically alleged that the applicant no.2 and Dheeraj (A1)

jointly made a demand of an amount of Rupees One Crore to purchase the land and Mercedes car. Applicant no.2 allegedly harassed the first informant on account of failure to meet the unlawful demand. Thus, there are allegations of both unlawful demand as well as harassment on the failure of the first informant to meet the demand.

30. Mr. Patil, the learned Counsel for the applicants, made an earnest endeavour to draw home the point that applicant no.2 alongwith applicant no.1 have been residing separately from the first informant and Dheeraj (A1), since long. Moreover, applicant no.2 had accompanied the first informant and her father to lodge report against Dheeraj (A1). To bolster up this submission, our attention was invited to the averments in the FIR to the effect that on 1st June, 2020, the applicant no.2 had accompanied the first informant and her father to lodge report against his son Dheeraj (A1). Reliance was also placed on the general diary Entry No.007, dated 2nd June, 2020 at Khadaki Police Station, made on the basis of the report of first informant, to the effect that Dheeraj (A1) had abused applicant no.2 on phone, as well.

31. We are afraid to accede to the submissions on behalf of applicant no.2. At this juncture, in the backdrop of the allegations in the FIR, qua applicant no.2, which clearly fall

within the ambit of cruelty defined in Section 498A of the Penal Code, especially the specific allegations of unlawful demand and consequent harassment for failure to meet the demands, we find it rather difficult to arrive at the conclusion that the allegations against applicant no.2, as they stand, do not make out a case for the offence punishable under Section 498A of the Penal Code.

32. The conspectus of aforesaid consideration is that the application deserves to be allowed qua applicant nos.1, 3 and 4. However, we are not persuaded to quash the proceeding against applicant no.2 Dineshchandra @ Balasaheb Shankarrao Argade.

33. Hence, the following order.

: O r d e r :

- (i) The application stands partly allowed.
- (ii) FIR No.351 of 2020, registered with Khadaki Police Station, Pune, for the offences punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Penal Code stands quashed against applicant no.1 Vijayalaxmi, applicant no.3 Sonal and applicant no.4 Mrudula.
- (iii) The application of applicant no.2 Dineshchandra stands rejected.
- (iv) The Investigating Officer is at liberty to carry out

investigation qua applicant no.2 and take further action in accordance with law.

- (v) We make it clear that the aforesaid consideration is confined to prayer for quashment of the FIR and the Investigating Agency and the Court, in the event of trial, shall not be influenced by any of the observations made hereinabove, in the further proceedings on the basis of the aforesaid FIR.

[N. J. JAMADAR, J.]

[S. S. SHINDE, J.]

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Date: 2021.10.20
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