

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

CRIMINAL APPLICATION (APL) NO. 411 OF 2015

1. Vishant Samadhan Sonone,
Aged 31 Occupation : Service,
Resident of Flat No.404, Q Building
Madhuwant, Nanded City,
Sinhagad Road, Pune – 411 041.
2. Smt. Shashikala Samadhan Sonone,
aged 61 Occupation : Household,
Resident of Flat No.404, Q Building
Madhuwant, Nanded City,
Sinhagad Road, Pune – 411 041.
3. Sau. Varsha Arun Chavhan,
aged 35 years, Occupation: Household,
Resident of Suvarna Nagar,
Behind Bus Stand, Buldana,
Tahsil and District : Buldana.

.... **APPLICANTS.**

// VERSUS //

1. State of Maharashtra,
Through its Police Station
Officer, Police Station, Khamgaon,
Tahsil : Khamgaon, Dist. Buldana.
2. Sau. Neha Vishant Sonone,
aged 22 years, Occ. Household,
Resident of C/o. Shri Deepak
Kashiram Tidke, BSNL Staff
Quarters, Near Zunzunwala
Petrol Pump, Nandura Road,
Khamgaon, Tahsil : Khamgaon,
District: Buldana.

.... **NON-APPLICANTS.**

Shri T.U.Tathod, Advocate for Applicants.
Shri S.P. Deshpande, A.P.P. for Non-applicant No.1.
None for Non-applicant No.2.

CORAM : Z.A.HAQ AND AMIT B. BORKAR, JJ.
DATED : FEBRUARY 24, 2021.

ORAL JUDGMENT : (Per : Amit B. Borkar, J.)

1. Heard learned Advocate for the applicants and the learned A.P.P. for the non-applicant No.1.

None appeared for the non-applicant No.2 on 18/02/2021, the matter was therefore, adjourned for today. Today also none appeared for the non-applicant No.2, therefore, we are deciding the matter on merits.

2. By this application under Section 482 of the Code of Criminal Procedure the applicants have challenged the registration of the First Information Report No.67 of 2015, dated 04/05/2015 for the offence punishable under Section 498-A read with Section 34 of the Indian Penal Code.

3. The First Information Report came to be registered against the applicants with the accusations that the marriage between applicant No.1 and the non-applicant No.2 was performed on 11/05/2014. It is alleged that

thereafter the applicants physically and mentally harassed the non-applicant No.2. It is further alleged that the applicant No.2 raised hands on the non-applicant No.2 and attempted to beat her. It is alleged that the harassment caused to the non-applicant No.2 was due to non-payment of the amount of dowry of Rs.5,00,000/-. It is alleged that the non-applicant No.2 has been residing with her father and mother from 03/08/2014. The applicant has filed complaint with the non-applicant No.1 on 05/01/2015 and the First Information Report came to be registered against the applicant on 04/05/2015.

4. The applicants have challenged registration of the First Information Report by filing present application. This Court on 2nd July 2015 issued notice to the non-applicants and on 7th October 2015 issued Rule and granted interim relief granting stay to the investigation in relation to First Information Report No.67 of 2015.

5. The non-applicant No.1 has filed reply and it is stated that it is the contention of the non-applicant No.2 that she was mentally and physically harassed by the applicants for non-payment of Rs.5,00,000/- towards dowry. It is further stated that the Investigating Officer has recorded statements of relatives of the non-applicant No.2.

6. The non-applicant No.2 has also filed reply and it is stated that the allegation in the present application that the marriage of the non-applicant No.2 took place with one Deepak Gaikwad is incorrect and the documents annexed to the present application to prove said marriage are forged and fabricated documents. It is stated that the marriage with the applicant No.1 is not second marriage. It is further stated that the pendency of the criminal complaint filed by the applicant on 24th April 2015 before the Judicial Magistrate First Class Court, Pune does not affect the present proceedings and therefore, it was prayed that the application deserves to be dismissed.

7. We have carefully considered the allegations in the First Information Report and we find that the allegations against each of the applicant is vague in nature. Though the non-applicant No.2 has mentioned the dates when the alleged incident took place, but after considering the allegations in the First Information Report, we find that even if the allegations are assumed to be correct, the ingredients of the offence under Section 498-A of the Indian Penal Code are not made out. It appears from the allegations in the First Information Report that the non-applicant No.2 has left matrimonial house on 3rd August 2014 and the complaint is filed by the non-applicant No.2 with the non-applicant No.1 Police Station on 5th January 2015. On overall consideration of the allegations in the First Information Report and considering the allegations made against the mother-

in-law and applicant No.3 sister-in-law, who is residing at Buldana and in view of the judgment of the Apex Court in the case of *K.Subba Rao Vs. State of Telangana*, reported in **(2018)14 SCC 452**, wherein it is observed that the relatives of the husband should not be roped in on the basis of vague allegation unless specific instances of their involvement are set out, we are satisfied that the First Information Report against the applicant deserves to be quashed and set aside.

8. We therefore, pass the following order:

The First Information Report bearing Crime No.67 of 2015, dated 04/05/2015, registered against the applicants with the non-applicant No.1 Police Station for the offence punishable under Sections 498-A and 34 of the Indian Penal Code, is quashed and set aside.

Rule is made absolute accordingly.

(AMIT B. BORKAR, J)

(Z.A.HAQ, J)