

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

**977 CRIMINAL APPLICATION NO.2893 OF 2021**

1. Swati w/o. Vijay Shinde .. Applicants
2. Ajinkya s/o. Vijay Shinde
3. Shilpa @ Vasanti w/o. Pratap Pimpale  
[Application to the extent of applicant  
Nos.1 to 3 is dismissed as withdrawn  
vide order dated 05.01.2022]
4. Tanaya w/o. Prajakt Jadhav

Versus

1. The State of Maharashtra .. Respondents
2. Supriya w/o. Aditya Shinde

Mr.D.S. Patil, Advocate for the applicants.  
Mr.S.D. Ghayal, APP for the respondent/State.  
Mr.Dinesh V. Manwatkar h/f. Mr.S.S. Randive, Advocate for  
respondent No.2.

**CORAM : V.K. JADHAV &  
SANDIPKUMAR C.MORE,JJ.  
DATED : 15.03.2022**

**PC :-**

01. By consent of the parties, heard finally at the  
stage of admission.

02. The applicant is seeking quashing of the FIR  
bearing Crime No.254 of 2021 registered with Selu Police  
Station, Tal. Selu, Dist. Parbhani, for the offences

punishable under sections 313, 323, 498-A, 504, 506 read with section 34 of the Indian Penal Code.

03. Learned Counsel for the applicant submits that there are no allegations against present applicant and she has been implicated in connection with present crime only for the reason that she is girl friend of accused No.1 - husband of respondent No.2. Learned Counsel submits that the girl friend of the husband is not relative and as such provisions of section 498-A of the IPC does not attract against her. Learned Counsel submits that so far as other charges under sections 313, 323, 504 and 506 read with section 34 of the IPC are concerned, the allegations to that extent have been made only against co-accused persons and there are no allegations against present applicant.

04. Learned Counsel for respondent No.2 submits that somewhere around on one occasion the applicant had been to the matrimonial house of respondent No.2 and insisted

co-accused – husband to give divorce to respondent No.2 and further present applicant and other co-accused husband abused and extended beating to her. Learned Counsel submits that there is triable case against the applicant and this application is liable to be dismissed.

05. We have also heard learned APP for respondent/State.

06. Admittedly, the applicant is a girl friend of co-accused – husband. Though there are allegations to certain extent against present applicant, however, those allegations are vague and absurd in nature. There is no reference to the date, time and place. It has been simply referred in the complaint that on one occasion applicant has instigated co-accused-husband to give divorce to respondent No.2 and thus both of them abused and extended beating.

07. So far as allegations as made in the FIR against

the applicant are concerned, 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 applicant herein. So far as charge under section 498-A of the IPC is concerned, in a case of **U.Suvetha Vs.State by Inspector of Police and Anr., 2009 AIR SC (Supp) 1451**, in para 18 and 21, the Supreme Court has made following observations:-

"18. By no stretch of imagination a girl friend or even a concubine in an etymological sense would be a 'relative'. The word 'relative' brings within its purview a status. Such a status must be conferred either by blood or marriage or adoption. If no marriage has taken place, the question of one being relative of another would not arise."

"21. Applying the principles laid down in various decisions referred to above, we have no doubt, in our mind, that the appellant is not a relative of the husband of the first informant."

08. In above cited case, the Supreme Court has observed that by no stretch of imagination a girl friend or even a concubine in an etymological sense would be a "relative".

09. So far as charge under section 313 of the IPC is concerned, though allegations are made mainly against co-accused – husband, in a case of State of Haryana and Ors. Vs. Bhajanlal & Ors., 1992 suppl. (1) SCC 335 in para No.102 of the judgment, the Supreme Court by referring various cases on this point has formulated categories of cases by way of illustration, wherein powers under section 498-A of Cr.P.C. could be exercised either to prevent abuse of process of Court and securing ends of justice. So far instant case is concerned, category Nos.1 and 3 which are relevant for discussion are reproduced here-in-below:-

(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.

(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."

10. In view of above discussion and in terms of the ratio laid down in the aforesaid cases, we are inclined to quash FIR to the extent of applicant before us. Hence, following order :-

**O R D E R**

(i) Criminal Application No.2893 of 2021 is hereby allowed in terms of prayer clause (B) to the extent of present applicant.

**[SANDIPKUMAR C. MORE,J.]**

**[V.K. JADHAV,J.]**