

IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.

CRIMINAL APPLICATION [APL] No. 739/2022.

Sujata w/o Abhishekh Kothari,
Age 45 years, Occupation
Household, resident of Plot No.166,
Shivaji Nagar, Flat No.D/4, 3rd Floor,
Kanchan Vimal Apartment,
Nagpur 440010.

... **APPLICANT.**

VERSUS

1.Abhishekh s/o Govindlal Kothari,
Age 45 years, Occupation -
Business, resident of Opp. Agyaram
Devi Mandir, Subhash Chandra
Bose Road, Nagpur 440018.

Also at Bhagwati Travels, 171
Subhash Chandra Bose Road,
Nagpur 440018.

2.State of Maharashtra,
through Police Station Officer,
Police Station, Ambazari,
Nagpur.

... **NON-APPLICANTS.**

Ms. S.H. Bhatia, Advocate for the Applicant.
Mr.A.C. Jaltare, Advocate for Non-applicant No.1.
Mr.H.D. Dubey, A.P.P. for Non-applicant No.2.

CORAM : VINAY JOSHI, J.

DATE : JULY 07, 2022.

ORAL JUDGMENT :

Considering the controversy involved in the matter and by consent of the learned Counsel appearing for the parties, Criminal Application is taken up for final disposal at the stage of admission.

Admit.

2. The State has applied for addition of charge under Section 498-A of the Indian Penal Code, which prayer was rejected by the Magistrate and the revision is also dismissed, therefore, the parties are before this Court.

3. The applicant – wife was assaulted by the non-applicant – husband on 05.11.2010 at Gokulpeth Market area. The non-applicant – husband also pushed her causing injury of grave nature and smashed her mobile. On the following day, the applicant/ wife lodged a report with the police on the basis of which a crime was registered for the offence punishable under Sections 338, 428 and 506 of the Indian Penal Code. After examination of two witnesses, the prosecution moved an application for adding aforesaid charge.

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4. The learned Counsel appearing for the applicant would submit that the act of assault amounts to cruelty within the meaning of Section 498-A of the Indian Penal Code. She would submit that the non-applicant/husband used to carry knife. There are eye witness to the incident and the applicants statement is supported by medical evidence. By no stretch of imagination, the isolated act of assault would find place within Clause [a] and [b] to Section 498-A of the Code.

5. Apparently clause [b] would not apply to the situation. In order to attract clause [a], the conduct of husband should be of such an extreme nature that there should be likelihood of the women to commit suicide or cause injury to her life or limb. Besides the act of assault, there is nothing in the police report nor in the applicant's evidence. In the circumstances, the challenge is totally devoid of merits. Criminal Application is therefore, rejected.

JUDGE