

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

**CRIMINAL APPLICATION NO. 441 OF 2022**

1. Krushna Pandurang Gayke  
(withdrawn vide order dt. 24/02/2022)
2. Pandurang Vinayak Gayke  
Age: 60 years, Occu.: Nil,
3. Sobha Pandurang Gayke  
(withdrawn vide order dt. 24/02/2022)
4. Dattatraya Pandurang Gayke  
Age: 36 years, Occu.: Job,
5. Dipali Dattatraya Gayke  
Age: 26 years, Occu.: Housewife,  
All R/o Saraswati Colony, Kannad,  
Tq. Kannad, Dist. Aurangabad

..APPLICANTS

VERSUS

1. State of Maharashtra
2. Archana Krushna Gayke  
Age: 27 years, Occu.: Housewife and Job,  
R/o c/o New Hanuman Nagar, Lane No.5,  
Aurangabad, Dist. Aurangabad

..RESPONDENTS

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Mr. R.A. Jaiswal, Advocate for applicants  
Mr. P.G. Borade, A.P.P. for respondent no.1 – State  
Ms. C.E. Gaikwad, Advocate for respondent no.2

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**CORAM : SMT. ANUJA PRABHUDESSAI AND  
R.M. JOSHI, JJ.**

**DATE : 03<sup>rd</sup> FEBRUARY, 2023**

**PER COURT :**

1. Heard finally at admission stage with consent of learned counsel  
for the respective parties.

2. This is an application under Section 482 of Code of Criminal Procedure to quash the criminal proceeding bearing R.C.C. No. 2360 of 2021 pending on the file of J.M.F.C., Aurangabad for the offences punishable under Sections 498-A, 323, 504 read with Section 34 of the Indian Penal Code.

3. By order dated 24<sup>th</sup> February, 2022, Applicant Nos. 1 and 3, being husband and mother-in-law of the Respondent No.2, were permitted to withdraw the application. Applicant No.2 is the father-in-law and Applicant No.4 is the brother-in-law of the Respondent No.2. Applicant No.5 is the wife of Applicant No.4. Marriage of Respondent No.2 and Applicant No.1 was solemnized on 11<sup>th</sup> June, 2020. She lodged the F.I.R. on 31<sup>st</sup> March, 2021 alleging that she was treated well for a period of eight days of marriage and thereafter her in-laws started demanding Rs.10 lakhs and five *tola* gold and that they had subjected her to physical and mental cruelty for not meeting the said demands. She claims that on 29<sup>th</sup> June, 2020 her in-laws had dropped her to the parental home with instructions to bring the money, without which they would not allow her to return to the matrimonial home. On the basis of said allegations, the aforesaid crime has been registered. Upon completion of investigation, charge-sheet has been filed against these applicants for committing aforesaid offences.

4. At this stage, it would be relevant to take note of the judgment of the Hon'ble Apex Court in case of ***Kahkashan Kausar alias Sonam and Others***

***Vs. State of Bihar and Others, (2022) 6 SCC 599***, wherein the issue involved therein was that whether the allegations made against the in-laws are in the nature of general omnibus allegations and therefore liable to be quashed. The Apex Court has observed that *“there is a phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-A I.P.C. was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-A I.P.C. is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision.”* In paragraph no.17 of the said judgment it is observed thus :-

*“... this court has at numerous instances expressed concern over the misuse of Section 498-A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.”*

5. In our considered view, in the instant case apart from the omnibus allegations against these applicants, there is absolutely no material on record

to indicate demand of dowry or any specific instances of subjecting the Respondent No.2 to physical or mental cruelty. The records reveal that the Respondent No.2 had left her matrimonial home within a period of eight days from the date of marriage. The allegations against the present applicants are omnibus in nature and lack material particulars and considering the fact that F.I.R. is lodged after about nine months of Respondent No.2 started staying with her parents, there is reason to believe that lodging of report against the relatives of husband is with an intention to harass them. On the basis of prima facie consideration of the allegations, no cognizable offence is made out against the applicants. In view of above and considering the observations of Hon'ble Supreme Court in case of ***State of Haryana and Ors. Vs. Ch. Bhajan Lal and Ors. 1992 AIR 604***, we are of the view that these applicants are unnecessarily roped in the matrimonial dispute of Applicant No.1 and Respondent No.2. The contents of the F.I.R. and other material on record collected during investigation even if accepted in their entirety, do not disclose offence under Section 498-A I.P.C. In such circumstances, compelling the applicants to face criminal trial would be sheer abuse of the process of law.

6. In the result, criminal application is allowed in terms of prayer clause (B). Consequently, the criminal proceeding bearing R.C.C. No. 2360 of 2021 pending on the file of J.M.F.C., Aurangabad for the offences

punishable under Sections 498-A, 323, 504 read with Section 34 of the Indian Penal Code stands quashed, qua Applicant Nos. 2, 4 and 5.

( R.M. JOSHI, J. )  
SSD

( SMT. ANUJA PRABHUDESSAI, J. )