

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

CRIMINAL APPLICATION (APL) NO.489 OF 2023

Tushar Shalikram Bhagat and ors.

.VS.

The State of Maharashtra and Anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr M. P. Kariya, Advocate for the applicants
Ms M. H. Deshmukh, APP for the State

CORAM : G.A. SANAP, J.
DATE : APRIL 06, 2023.

Heard the learned Advocate for the applicant.
Perused the application and the grounds of challenge to
the framing of charge by the learned Magistrate. Perused
the charge.

2. It is duty of the Court to frame the charge.
The charge must be framed on the basis of the material
on record. The material on record, at the stage of
framing of charge, is required to be sifted to see whether
it is sufficient to presume that the accused have
committed the offence. Perusal of the charge would
show that it is not a defective charge. It is consistent with
the very core of the case of the prosecution.

3. It is submitted that the hearing was not given before framing the charge. The applicants have not placed on record any material or the documents to show that on the date of framing of charge, the hearing was not conducted. The next ground is that there is no material against the accused Nos. 2 and 3 to charge them for the commission of the alleged offence. Learned Advocate took me through the report lodged by the informant and her subsequent statement. Similarly, the statements of the other witnesses are annexed to the application. Perusal of the report and the statement would show that the specific role has been attributed to the accused Nos. 2 and 3. It is therefore seen that the statement made in the report itself is sufficient to attribute a specific role to the accused Nos. 2 and 3. It has been stated in the report that after marriage the informant was residing at the house at Dahegaon. The accused Nos. 2 and 3 instigated her husband to make a forceful demand of the money and if the said demand is not fulfilled, then he should not except the informant as his wife and sent her back to her parents' house. It is stated that the informant requested them with folded hand that not to behave with her in this manner, her life will be spoiled. It is further stated

that despite this earnest request, the accused persons continued the treatment. It has been stated that they subjected her to mental and physical torture. In my view this material is *prima facie* sufficient to presume the commission of the offence. I do not see any substance in the application that the charge is not at all tenable against the accused Nos. 2 and 3. In view of this, the application stands **dismissed**.

4. It is made clear that these observations are made for the purpose of deciding the limited issue and the learned Judge of the trial Court shall not get influenced by these observations in any manner.

5. The criminal application stands **disposed of**.

(G. A. SANAP, J.)

Namrata