

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

CRIMINAL APPLICATION (APL) NO. 1145 OF 2021

APPLICANT : Sou. Anita W/o Dinkar Deshmukh,
Age - 38 years, Occ - Household,
R/o Labour Colony, Bhavani Peth,
Tarfile, Akola.

V E R S U S

NON-APPLICANTS : 1. State of Maharashtra
Through Police Station Ramdas Peth,
Akola, District - Akola.

2. Jaishri W/o Dilip Angaitkar,
Aged - 41 years, Occ - Business
R/o. Near Dadasaheb Meshram School,
Akola, Tal & Dist. Akola.

Shri N. R. Tekade, Advocate for applicant.
Shri N. R. Rode, Additional Public Prosecutor for Non-Applicant No.1.
Shri S. R. Babhulkar, Advocate h/f Shri S. S. Dhengale, Advocate for
Non-Applicant No.2.

CORAM: VINAY JOSHI AND
BHARAT P. DESHPANDE, JJ.
DATE : 18/04/2023.

ORAL JUDGMENT : (PER VINAY JOSHI, J.) :

1. **Admit.** Heard finally with the consent of learned
counsel appearing for the parties.

2. This is an application in terms of Section 482 of the
Code of Criminal Procedure seeking to quash First Information
Report in Crime No.0016/2021 for the offence punishable under

Section 498-A read with Section 34 of the Indian Penal Code and related charge sheet bearing Regular Criminal Case No.493/2021 pending in the Court of Chief Judicial Magistrate, Akola.

3. Apart from factual aspect, the applicant has canvassed that the prosecution against her for the offence punishable under Section 498-A itself is untenable on the ground that she does not fall within the term “relative of the husband” as referred under Section 498-A of the Indian Penal Code. In support of said contention, reliance is placed on the decisions of Supreme Court in the case of U. Suvetha Vrs. State by Inspector of Police and another, reported in 2009 (6) SCC 757 and in the case of Vijeta Gajra Vrs. State of NCT of Delhi, reported in 2010 (11) SCC 618.

4. We have examined the entire material on record. The non-applicant No.2 informant lady has lodged the report on 07/01/2021 alleging harassment on the part of her husband and other relatives. It is her contention that after marriage in the year 1995, she has begotten four female issues that caused husband to harass her mentally as well as physically. She stated that her husband, father-in-law and mother-in-law have harassed her in order to meet unlawful demand. Concededly, there is no reference of informant lady in the final First Information Report. We have gone through the subsequent supplementary statement of the

informant dated 10/08/2020. In the said statement, informant stated that (Dilip - co-accused) was having illicit relations with the applicant. She stated that they have tried to persuade applicant, but she did not listen. Besides that, the rest of the allegations are against husband and other relatives. The other side is unable to point out any material against applicant, besides supplementary statement. On facts, no role has been assigned to applicant besides the allegations of her illicit relationship with the husband.

5. Whether lady with whom husband is having relations can find place within the term "relative" within the meaning of Section 498-A is a question for consideration. In above referred cases, same question falls for consideration. The Hon'ble Supreme Court has considered the aspect as to whether a girl friend would be a relative of husband of the woman in context with Section 498-A of the Indian Penal Code. The Hon'ble Supreme Court has taken survey of various decisions. It is observed that the provision being a penal one, it must be strictly construed. In view of various decisions, it has been ultimately held that such lady cannot be termed as a "relative of husband". In view of above exposition of law, the applicant would not fall within the ambit of Section 498-A of the Indian Penal Code. In view of above finding, the prosecution against applicant would not sustain in the eyes of law.

6. In the circumstances, the application is allowed. We hereby quash and set aside the First Information Report in Crime No.0016/2021 for the offence punishable under Section 498-A read with Section 34 of the Indian Penal Code and related charge sheet bearing Regular Criminal Case No.493/2021 pending in the Court of Chief Judicial Magistrate, Akola.

7. Needless to say that prosecution shall go on against rest of the accused.

[BHARAT P. DESHPANDE, J.]

[VINAY JOSHI, J.]

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