

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.6154 OF 2024

Girish A. Sarwate and ors .. Petitioners

Versus

State of Maharashtra & Anr .. Respondents

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Mr.Rohit Joshi for the petitioners.

Mr.Anuj Tiwari with Abhideep Khaladkar for respondent no.2.

Mr.S.R. Agarkar, APP for the State.

CORAM : BHARATI DANGRE &
SHYAM C. CHANDAK, JJ
DATED : 1st DECEMBER, 2025

P.C:-

1 The petition by the three petitioners, Mr. Girish Sarwate, husband of respondent no.2 complainant and his parents – sexagenarian, seek quashing of the charge-sheet filed against them in the Court of JMFC, 9th Court, Shivaji Nagar, Pune, pursuant to an FIR being registered, by invoking Section 498A of the IPC along with Section 34 of the IPC.

2 We have heard Mr.Rohit Joshi, learned counsel for the petitioners and Anuj Tiwari for respondent no.2.

By consent of the parties, we issue Rule and take up the petition for hearing at the stage of admission.

FIR bearing No.668/2023 is lodged by the complainant – wife of petitioner no.1 and daughter-in-law of petitioner nos.2 and 3 alleging that on 19/1/2021, marriage was solemnised between them as per Hindu rites and customs, and the marriage was a lavish affair as per the wishes of the in-laws as they projected that since they were Army retired Personnel many big shots would attend the marriage. However, as per the demand, her parents spend Rs.70 lakhs for the marriage ceremony.

As per the complainant, after the marriage, she was happily leading her married life and she had taken off from her job for a period of two months. Thereafter, when she joined, if she used to return late, her in-laws stopped talking to her. According to the complainant, despite she residing at her in-laws place, her parents used to cater to her daily expenses and every time, she was told to arrange that from her parental house. Constantly, there were demands of bringing items like sofa set, table, and to save the marriage, she attempted to satisfy the demand.

3 The allegation against the husband i.e. petitioner no.1 is that there was difficulty in consummating the marriage and when she suggested that they shall visit the Doctor, she was made to sleep in the hall on a sofa and this caused her mental agony. Whenever she used to return home late, her husband used to lock the bedroom and she was made to sit outside. She

complained about this behaviour of her husband to her in-laws, but they always blamed her and her parents were insulted when they sought to intervene.

On 29/5/2022, when she forwarded a message to her husband, whether she can stay at her mother's place, she received a reply that he can stay there and collect all her belongings and shift permanently to her parental house. Thereafter, some settlement talks were undertaken and much attempts were made to convince the petitioners, but nothing succeeded and the complainant went into depression and it was decided by her parents that she shall seek divorce.

5 We have perused the complaint which resulted into invocation of Section 498A read with Section 34 of the IPC, and on completion of the investigation, charge-sheet came to be filed which included the statement of the complainant as well as her mother and father, who reiterated that they had spent about Rs.70 lakhs on her marriage and they used to cater to every need of their daughter.

Statement of one Vishakha Parab, her sister-in-law as well as one Siddharth Vinodkumar Parab, who is treated as brother by the complainant are also included in the charge-sheet. All the said persons have spoken in sync with one another about the marriage not being worked out between the couple, leading to a quibble.

On reading of the complaint and the charge-sheet, we do not find anything more than this.

.. It is necessary to reproduce the said provision to ascertain whether the accusations in the complaint attract ‘cruelty’ as contemplated in the said provision.

498A Husband or relative of husband of a woman subjecting her to cruelty.— Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.— For the purpose of this section, “cruelty” means—

- (a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
- (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

6 The reading of the aforesaid provision make it clear that the term ‘cruelty’ is assigned a definite meaning and it contemplate a conduct of such nature as is likely to drive a woman to commit suicide or cause grave injury to herself or lead to such conduct that would cause grave injury to life, limb or health. If at all it is harassment with a view to satisfy any unlawful demand for any property or valuable security raised by the husband or his relatives, it would also attract cruelty, but except a bald statement that the mother-in-law on telephone, used to ask her as to why dowry is not paid by her father, no specific accusations are levelled.

7 In **Dara Laxmi Narayana & ors Vs. State of Telangana**,¹ the Apex Court with reference to the FIR lodged by invoking Sections 498A of the IPC, has observed thus :-

“27 A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognised fact, borne out of judicial experience, that there is often a tendency to implicate all the members of the husband’s family when domestic disputes arise out of a matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessary harassment of innocent family members. In the present case, appellant Nos.2 to 6, who are the members of the family of appellant No.1 have been living in different cities and have not resided in the matrimonial house of appellant No.1 and respondent No.2 herein. Hence, they cannot be dragged into criminal prosecution and the same would be an abuse of the process of the law in the absence of specific allegations made against each of them.”

8 The whole purpose of introduction of Section 498A of IPC was to curb the cruelty inflicted on a woman by her husband and his family, but taking note of the notable rise in matrimonial disputes accompanied with growing discord and tension within the institution of marriage, the Apex Court noted that there is a growing tendency to misuse the provision like Section 498A of the IPC as a tool of unleashing personal vendetta against the husband and his family by wife.

 Their Lordships of the Apex Court noted thus :-

“30 The inclusion of [Section 498A](#) of the IPC by way of an amendment was intended to curb cruelty inflicted on a woman by her husband and his family, ensuring swift intervention by the State. However, in recent years, as there have been a notable rise in matrimonial disputes across the country, accompanied by

1 2025(3) SCC 735

growing discord and tension within the institution of marriage, consequently, there has been a growing tendency to misuse provisions like [Section 498A](#) of the IPC as a tool for unleashing personal vendetta against the husband and his family by a wife. Making vague and generalised allegations during matrimonial conflicts, if not scrutinized, will lead to the misuse of legal processes and an encouragement for use of arm twisting tactics by a wife and/or her family. Sometimes, recourse is taken to invoke [Section 498A](#) of the IPC against the husband and his family in order to seek compliance with the unreasonable demands of a wife. Consequently, this Court has, time and again, cautioned against prosecuting the husband and his family in the absence of a clear prima facie case against them.

31 We are not, for a moment, stating that any woman who has suffered cruelty in terms of what has been contemplated under [Section 498A](#) of the IPC should remain silent and forbear herself from making a complaint or initiating any criminal proceeding. That is not the intention of our aforesaid observations but we should not encourage a case like as in the present one, where as a counterblast to the petition for dissolution of marriage sought by the first appellant-husband of the second respondent herein, a complaint under [Section 498A](#) of the IPC is lodged by the latter. In fact, the insertion of the said provision is meant mainly for the protection of a woman who is subjected to cruelty in the matrimonial home primarily due to an unlawful demand for any property or valuable security in the form of dowry. However, sometimes it is misused as in the present case.

9 In the wake of the aforesaid observations from the highest court of the country, the Courts while exercising the power of quashing of the FIR invoking Section 498A have to be extremely careful and cautious, and are expected to take realities into consideration, while considering such allegations. The allegations of harassment by the husband's relatives who have been living separately and who visit on rare occasion must be scrutinised with great care and circumspection.

10 Applying the parameters laid down by the Apex Court in **State of Haryana vs. Bhajan Lal**,² when the FIR is filed

2 1992 Supp (1) SCC 335

with an ulterior motive to settle personal scores and grudges mainly against the husband i.e. applicant no.1, before us, by involving all his relations, including his married sister-in-laws, his parents, according to us, the present case falls within category (7) of the illustrative parameters highlighted in **Bhajan Lal**.

In the wake of the aforesaid, we find ourselves to be justified in exercise of our inherent powers under Section 482 of the Cr.PC to prevent abuse of the Court's process by continuing the criminal prosecution against the petitioners merely on the basis of vague and omnibus allegations, which in any case, cannot be proved in the Court of Law, as they lack the necessary details and are in form of bald accusations.

For the said reason, Writ Petition is allowed. FIR No. 668/2023 dated 22/9/2023 and the charge-sheet registered at Chaturshrungi police station are quashed and set aside.

(SHYAM C. CHANDAK,J)

(BHARATI DANGRE, J.)