

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION (APL) NO. 629 OF 2024

Prince Motilal Loonker and Ors. Applicants

V/s.

The State of Maharashtra and anr. Respondents

Mr. Chetan Damre a/w. Mr. Omkar Banbe for the Applicants.

Ms. Sangeeta Shinde, APP for the Respondent – State.

Ms. Meghna Gowalani, for the Respondent – No.2.

**CORAM : BHARATI DANGRE &
SHYAM C. CHANDAK, JJ.**

DATED : 09th DECEMBER, 2025

ORDER: (PER SHYAM C. CHANDAK, J.) :-

1) The Applicants, arraigned in FIR bearing C.R. No. 764 of 2024, registered with Naarpoli Police Station, Bhiwandi, Thane for the offences punishable under Sections 498A, 323, 504 read with 34 of the Indian Penal Code, seek quashing and setting aside of the said FIR.

The FIR is registered on the complaint of Respondent No.2 which was filed on 16/03/2024. During investigation, the police recorded the statements of the witnesses. On completion of the investigation, charge-sheet came to be filed. Learned counsel for the Applicants produced the copy of the charge-sheet.

Respondent No.2 got married to Applicant No.1 on 18/04/2017. Applicants Nos.2 to 4 are the mother-in-law, father-in-law and sister-in-law of Respondent No.2, respectively.

2) Rule. Rule made returnable forthwith and heard finally with consent of parties.

3) Mr. Damre, the learned Counsel for the Applicants submitted that the allegations in the FIR are vague and general in nature and do not make out a case of the alleged offences. The allegations as to misappropriation of the *stridhan* are false, as Respondent No. 2 in her affidavit dated 15/06/2019, has herself admitted that she had taken her *stridhan* and she has kept it in her bank locker. It is submitted that, Respondent No.2 always wanted to reside separately from her in-laws and, on several occasions, voluntarily, she left the matrimonial home. On each such occasion, Applicant No.1 made sincere efforts to save the matrimonial relationship and brought her back through mediation. However, on 10/10/2022, Respondent No.2 again left the matrimonial home and thereafter, she never returned. Meanwhile, the matrimonial discord did not resolve. Therefore, Respondent No.2 filed a belated and false complaint of cruelty, out of personal vengeance. Therefore, the impugned FIR may be quashed.

4) Ms.Shinde, the learned APP for Respondent No.1–State submitted that after the marriage, Applicant No.1 used to beat Respondent No.2 on account of not receiving sufficient dowry, furniture, car, bike, etc., at the time of marriage. She was abused and denied the use of her own *stridhan* by the mother-in-law. Despite being a patient of asthma, the

domestic aid was discontinued and she was forced to do the entire household work by the mother-in-law and sister-in-law. In the year 2019, her father-in-law used to throw hot tea on her person. In the year 2022, her mother-in-law and sister-in-law deliberately used to create *neem* leaf smoke in the house, because she was asthmatic. She was abused, physically assaulted, and forcibly driven out of her matrimonial home. Thus, the offences alleged are clearly made out against the Applicants. Hence, the Application be rejected.

5) Ms.Gowalani, the learned Counsel for Respondent No.2 adopted the submissions made by the learned APP and submitted that there is a clear case against the Applicants of causing cruelty to Respondent No.2. As such, there is no substance in the Application.

6) We have considered the allegations in the FIR and the statements of the witnesses in the light of these submissions.

7) Section 498A of IPC provides that, 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. As stated in Explanation appended to this Section, 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.

8) The Prosecution case is that after the marriage, Respondent No.2 went to cohabit in the family of the Applicants. Respondent No.2 did not like onion and garlic and had told her husband about the same. However, her in-laws abused her and told her that she will have to eat that. However, this allegation do not constitute the cruelty as defined in the code. In her Affidavit dated 15/06/2019, Respondent No.2 admitted that she had taken her entire *stridhan* (400 grams of gold and 7 Kgs of silver ornaments).

It is alleged that, Applicant No.1 used to beat Respondent No.2 on account of her parents not given sufficient dowry, furniture, car, bike etc. at the time of the marriage. The Applicant No.1 used to take away the money given to her by her parents. Although she was suffering from asthma, her sister-in-law and mother-in-law made her do entire domestic work. They used to provoke Applicant No.1, therefore, he used to beat her. However, the instances of the said beating on account of not getting sufficient presents etc., taking away her money and causing her to do the entire domestic work are not informed.

As alleged, Applicant No.3 used to throw hot tea on her person alleging that the tea was not good. Nevertheless, it is not the case that

Respondent No.2 sustained any burns due to the hot tea. It is alleged that, in the year 2022, the mother-in-law and sister-in-law were deliberately creating *neem* leaf smoke with an intent to trouble Respondent No.2, as she was a patient of asthma. However, Respondent No.2 herself states that the smoke was created to repel mosquitoes.

9) It is alleged that, meanwhile, Respondent No.2 along with her child went to her parents' house and then returned to her matrimonial house leaving her child with her parents. Therefore, her mother-in-law abused her and assaulted her. She audio recorded the said incident on her mobile phone. Therefore, her husband and father-in-law assaulted her with fists and kicks and drove her out of the house. However, it is important to note that although three persons had assaulted Respondent No.2 as above, she did not sustain any injury.

10) As stated in the FIR, in 2019 Respondent No.2 with her child had gone to her parents' house because her father-in-law used to throw hot tea on her person. But it is her own case that no one from the Applicants contacted her and later the matter was settled and she resumed the matrimonial house. It is stated that, on 10/10/2022, Respondent No.2 contacted her father through the phone of her neighbour, Mrs. Lodha. Then her cousin, Naresh Jain, came and took her to her paternal house. Since then, she has been living in her paternal house. However, the Applicants did not take her back to the matrimonial home. These facts indicate that

although Respondent No.2 used to leave her matrimonial house, she wanted to stay there. Thus, her own conduct negates her version of cruelty.

11) Admittedly, various allegations of cruelty have been made by Respondent No.2, but not once she tried to file a prompt complaint thereof despite she had opportunities. The alleged incidents of cruelty pertain to the period prior to October 2022, whereas the FIR has been lodged on 16/03/2024, belatedly. The said delay is not explained.

12) In the wake of above, it appears that, the present FIR has been filed only on account of the domestic disputes and out of vengeance because the Applicants did not come to take Respondent No.2 back to the matrimonial house. As such, continuation of the proceedings arising out of impugned FIR and the consequent charge-sheet, in our opinion, would be an abuse of process of law as it would unnecessary burden the Applicants mentally, physically and economically. Therefore, we are inclined to allow this Application and pass the following order :

ORDER

- (i) The subject FIR bearing C.R.No.764 of 2024 registered with Naarpoli Police Station, Bhiwandi, Thane and the consequent charge-sheet, are quashed and set aside.

13) Application is disposed of in the aforesaid terms.

PREETI
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JAYANI

(SHYAM C. CHANDAK, J.)

(BHARATI DANGRE, J.)