



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

CRIMINAL APPLICATION NO.13 OF 2024

1. Ankush s/o Daulatrao Danao, aged about 32 years, Occ – Private Job, R/o Mahakali Ward, Chadrapur, District Chandrapur.
2. Daulatrao s/o Vishwanath Danao, aged 63 years, Occ – Retired, r/o Mahakali Ward, Chandrapur, District Chandrapur.
3. Smt. Prabhavati w/o Daulatrao Danao, aged about 57 years, Occ – Household, r/o Mahakali Ward, Chandrapur, District Chandrapur.

... APPLICANTS

VERSUS

1. The State of Maharashtra, through Police Station Officer, Navegaonbaandh, District Gondia.
2. Mrs. Arpita w/o Ankush Danao, aged about 25 yrs, Occ – Housewife, r/o C/o Shri Suresh Bankar, At Post Arjuni Morgaon, Navegaonbaandh District Gondia.

... NON-APPLICANT(S).

Shri Varun Katariya, Advocate a/w Shri A.D. Mhala, Advocate for the applicants.

Shri N. Joshi, Additional Public Prosecutor for the State.

Shri P.N. Sinha, Advocate for non-applicant no.2.

CORAM : ANIL S. KILOR AND PRAVIN S. PATIL, JJ.

DATE : 01.04.2025.

JUDGMENT : (Per : Anil S. Kilor, J.)

Since Shri Varun Katariya is appearing on behalf of the applicants, Shri P.R. Puri and Shri M.A. Vishnu, learned Counsel are hereby discharged.

2. Heard.

3. The applicants have been chargesheeted under Sections 498A, 354 read with Section 34 of the IPC. The charge-sheet bearing R.C.C. No.6/2024 is arising out of the First Information Report ('FIR') No.95/2023 dated 09.10.2023 registered with the Navegaon Bandh Police Station, District Gondia.

4. It is the case of the applicants that the allegations made in the FIR are general and vague, which do not constitute the offence under Section 498A of the IPC.

5. Learned Additional Public Prosecutor for the State and learned Counsel appearing for non-applicant no.2 strongly opposed the application on the ground that there is sufficient allegations made in the FIR and further submits that there are statement of witnesses from which it can be said that *prima facie* case is made out against the applicants under Section 498A of the IPC.

6. In the light of the rival submissions, we have perused the record. To appreciate the submission made by the learned Counsel for the applicants that mere allegation of cruelty is not sufficient to constitute the offence, it has to be pointed out that the act was done either with the intention to cause injury or to drive her to commit suicide with intention for coercing her relatives to meet unlawful demands.

7. The Hon'ble Supreme Court in the case of *Jayedeeepsinh Pravinsinh Chavda and ors. vs. State of Gajarat (2025) 2 SCC 116* carved out the prerequisites to constitute an offence under Section 498A of the IPC.

8. In the teeth of said prerequisites, we perused the FIR. Applicant no.1, who is the husband of the informant. In relation to him, allegations are that, since he had love affair with some girl, he refused

to maintain sexual relations with the informant.

9. Further there are allegations against applicant no.2, who is the father-in-law that in absence of her husband he used to touch the body of the informant with sexual intent.

10. It has further come on record that when she pointed out all this to applicant no.3, who is the mother-in-law of the informant, she abused her. It has further come on record that all the applicants for the fulfillment of demand of dowry and further demand of money, used to torture the informant.

11. There is also mention about the meeting held between the relatives of the informant with the applicants, wherein the applicants undertook and promised to behave properly with the informant.

12. The FIR further states that after such meeting, for two days the applicants treated the informant properly and thereafter they again started ill-treating her and because of such ill-treatment, on 26.08.2023 she tried to commit suicide, however she survived in the said incident. But, she was hospitalized for three days in ICU.

13. The Hon'ble Supreme Court in the case of *Rajiv Thapar and ors. vs. Madan Lal Kapoor (2013) 3 SCC 330* has held that the High

Court, in exercise of its jurisdiction under Section 482 of the CrPC, must make a just and rightful choice. This is not a stage of evaluating the truthfulness or otherwise of allegations levelled by the prosecution/complainant against the accused. Likewise, it is not a stage for determining how weighty the defences raised on behalf of the accused is. Even if the accused is successful in showing some suspicion or doubt, in the allegations levelled by the prosecution/complainant, it would be impermissible to discharge the accused before trial. This is so, because it would result in giving finality to the accusations levelled by the prosecution/complainant, without allowing the prosecution or the complainant to adduce evidence to substantiate the same.

14. In the circumstances, considering the allegations made in the FIR against the applicants and the observations of the Hon'ble Supreme Court in the case of *Rajiv Thapar (supra)*, *prima facie*, we are of the opinion that the alleged offence constitutes an offence against the applicants. Hence, this is not a fit case for quashing the FIR. Accordingly, the criminal application is rejected.

(PRAVIN S. PATIL, J.)

(ANIL S. KILOR, J.)

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