



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Criminal Application (APL) No. 211 of 2022

1. Ganesh S/o Kishanrao Chavan,
Aged about 50 years, Occ. Contractor
2. Ranjana W/o Ganesh Chavan,
Age about 43 years, Occ. Household
Both R/o N-4, Sidko, Tahsil Aurangabad, Police
Station Sidko, District Aurangabad
3. Gajanan S/o Lalsingh Jadhav,
Age about 39 years, Occ. Service
4. Sapna W/o Gajanan Jadhav,
Age about 34 years, Occ. Household
Both 3 and 4 R/o Ujjwal Nagar, Somalwarda,
Nagpur
5. Savita W/o Ramdhan Rathod,
Age about 60 years, Occ. Household
R/o Belora, Tah. Mantha, Dist. Jalna

... Applicant

// VERSUS //

1. State of Maharashtra,
through Police Station Officer,
Police Station Awdhutwadi, District Yavatmal.
2. Sau. Payal W/o Swapnil Chavan,
Age 29 years, Occ. Household
R/o C/o Vilas Rathod, Saibaba Nagar Godhani,
Yavatmal

... Non-
applicants

Shri O.K.Masure, Advocate for the applicants.
Ms. Mayuri Deshmukh, APP for the non-applicant/State.
Shri M.P.Kariya, Advocate for the non-applicant no.2.

**CORAM : ANIL S. KILOR &
PRAVIN S. PATIL, JJ.**

DATED : 2nd APRIL, 2025.

ORAL JUDGMENT : (PER : PRAVIN S. PATIL, J.)

Rule. Rule is made returnable forthwith. By consent of the learned counsel for the parties, the matter is taken for final disposal.

2. By this application filed under Section 482 of Code of Criminal Procedure, the applicants are seeking to quash and set aside the Regular Criminal Case No. 1660 of 2021 pending before the learned Judicial Magistrate First Class, Yavatmal, arising out of Crime No. 218 of 2021 for the offence punishable under Sections 498-A, 506, read with Section 34 of Indian Penal Code.

3. In short, the case of the prosecution is that informant namely Sau. Payal Swapnil Chavan lodged the police report to the Police Station Awdhutwadi on 8th March, 2021 alleging that after her marriage with Swapnil Chavan, she was harassed at the hands of her in-laws. She stated that after marriage, initially for some days she resided at Village Bimbi and thereafter at Aurangabad. According to her, her husband and Ganesh Chavan i.e. applicant no.1 were partners and obtained various contracts jointly. She alleged that applicant no.4 (sister-in-law) was residing separately who used to interfere in her matrimonial life by instigating her

husband on trivial issue against her. As a result, her husband used to give ill-treatment to her. Informant alleged that applicants were demanding money from the family of informant for purchasing the four wheeler and on that count, she was ill-treated by husband and his relatives. On this complaint, the offence was registered under Sections 498-A and 506 read with Section 34 of Indian Penal Code.

4. The applicants who are the distant relatives of informant made a submission that the allegations made in the complaint are vague and general in nature. In the complaint, there is no specific allegations against the applicants by which it can be said that offence under Section 498-A of Indian Penal Code is attracted against them in the matter. Accordingly, it is his submission that on the basis of vague and unsupported allegations no offence is made out against them. As per settled position of law in absence of specific allegation in complaint, it is not permissible to prosecute the distant relatives of husband. Hence, offence registered against them is required to be quashed and set aside.

5. Learned Additional Public Prosecutor stated that while investigating the matter, investigating agency has collected the statements

of informant and neighbours along with parents of the informant which clearly show that informant was subjected to cruelty and mental harassment at the hands of applicants. It is further stated that present applicants had instigated the husband namely Swapnil to make demand of dowry to the informant and on non-fulfillment of the said demand, she was subjected to cruelty and harassment. As such, there is ample evidence available on record and accordingly it is not a fit case to exercise the powers under Section 482 of the Code of Criminal Procedure for quashing of proceedings against the applicants.

6. Non-applicant no.2 filed her affidavit dated 12th October, 2022 and reiterated the submissions and allegations made by her in her complaint. She has stated that there is continuous demand of dowry at the instance of her husband and present applicants instigated her husband. Hence, applicants being instrumental for her harassment, the present applications deserves to be rejected.

7. With the assistance of the learned counsel appearing for the respective parties in the matter, we have perused the record and minutely considered the documents available on record.

8. It is clear from the record that present applicant nos. 1 and 2 are resident of Aurangabad and applicant nos. 3 and 4 are resident of Nagpur and applicant no.5 is the resident of Jalna. This fact is not disputed by the informant. Rather same is confirmed from her police report dated 8th March, 2021. It is clear from the averment of informant herself that after her marriage with Swapnil Chavan on 7th July, 2018, immediately thereafter, she along with her husband went to reside at Aurangabad. In Aurangabad city, applicant no.1 being working as a contractor at Aurangabad, informant's husband joined the said work with applicant no.1. From the record, it is revealed that present applicants and informant was residing separately. Therefore, it was necessary for informant to state specifically by quoting incidence as to how and in what manner, applicants instigated her husband and thereby how and in what manner she was harassed to meet unlawful demand. But except allegation of instigation, there is no material available on record.

9. The allegations levelled against the applicants therefore are to be examined on the touchstone of Section 498A of the Indian Penal Code. Section 498A of the IPC is attracted in two contingencies: the first

being where the husband or the relative of the husband of a woman, subjects such woman to cruelty. The cruelty has been explained to mean 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. The second being when the husband or the relative subjects such woman to harassment. 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.

10. In the present case, it is clear that allegation against the applicant nos. 2 and 3 are of vague and general in nature. Even if the accusation against the applicants are accepted on its face value on the touchstone of the ingredients of the offence punishable under Section 498-A of Indian Penal Code, they do not disclose cruelty or harassment as defined under Section 498-A of Indian Penal Code. Furthermore, it is not the case of informant/complainant that because of alleged instigation

at the instance of applicants, she attempted to commit suicide or even thought of it.

11. From perusal of contents of First Information Report against family members of husband/applicant no.1, it is clear that only to entangle the entire family members of husband to settle her personal goal, all are impleaded in complaint with oblique motive.

12. In support of our observation, it would be relevant to refer the relevant judgments of Hon'ble Supreme Court as the First Information Report in question emanates from matrimonial discord.

- (i) *Preeti Gupta and another Vs. State of Jharkhand* reported in 2010(7) SCC 667;
- (ii) *Geeta Mehrota and another Vs. State of Uttar Pradesh and another* reported in 2012(10) SCC 741;
- (iii) *Arnesh Kumar Vs. State of Bihar* reported in 2014(8) SCC 273;
- (iv) *Rajesh Sharma Vs. State of Uttar Pradesh* reported in 2018(10) SCC 472;

- (v) *Kahkashan Kausar alias Sonam and another Vs. State of Bihar* reported in 2022(6) SCC 599.

13. The Hon'ble Apex Court has time and again observed that "incorporation of section 498A of IPC was aimed at preventing cruelty committed upon a woman by her husband and her in-laws, by facilitating rapid state intervention. However, it is equally true, that in recent times, matrimonial litigation in the country has also increased significantly and there is a greater disaffection and friction surrounding the institution of marriage, now, more than ever. This has resulted in an increased tendency to employ provisions such as 498A Indian Penal Code as instruments to settle personal scores against the husband and his relatives".

"This court has at numerous instances expressed concern over the misuse of section 498A Indian Penal Code and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the

process of law. Therefore, this court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them”.

14. A bare perusal of the First Information Report shows that allegations made by the informant are vague and omnibus. Further informant has not provided any specific details nor described any particular incident of instigation on the part of applicants, she has also not mentioned the time, date, place or manner in which the alleged instigation has occurred. Therefore, the First Information Report in question do not make out any offence under Section 498-A, 506 and 34 of Indian Penal Code against the applicants.

15. In the light of above said legal position, we are of the confirmed view that no case is made out against the present applicants of as pre-requisites of Section 498-A and Section 506 read with Section 34 of Indian Penal Code are not attracted in the matter. Hence, application deserves to be allowed and accordingly, we proceed to pass the following order.

i. Criminal application is allowed;

ii. The Regular Criminal Case No. 1660 of 2021 pending before the learned Judicial Magistrate First Class, Yavatmal arising out of Crime No. 218 of 2021 for the offence punishable under Sections 498-A, 506, read with Section 34 of Indian Penal Code is hereby quashed and set aside against the applicant no.1 **Ganesh S/o Kishanrao Chavan**, applicant no.2 **Ranjana W/o Ganesh Chavan**, applicant no.3 **Gajanan S/o Lalsingh Jadhav**, applicant no.4 **Sapna W/o Gajanan Jadhav** and applicant no.5 **Savita W/o Ramdhan Rathod** only.

Rule is made absolute in aforesaid terms. No order as to costs.

[PRAVIN S. PATIL, J.]

[ANIL S. KILOR, J.]