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38 apl 279-2023

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

CRIMINAL APPLICATION (APL) NO.279 OF 2023

Mosin Nadeem Nadaf and others

Vs.

The State of Maharashtra through P.S.O., P.S. Avdhut Wadi Yavatmal, Dist. Yavatmal
and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms Aparna Kshirsagar, Advocate h/f Shri A.A. Dhawas, Advocate for applicants
Ms Swati Kolhe, APP for non-applicant/State
Shri Nikhil Dawade, Advocate (Appointed) for non-applicant No.2

CORAM : URMILA JOSHI-PHALKE AND
NANDESH S. DESHPANDE, JJ.
DATED : 24.11.2025

The present application is filed by the applicants who are the husband and in-laws of the non-applicant No.2, for quashing of the First Information Report in connection with Crime No. 0013/2023, registered with Police Station Awadhutwadi, under Section 498-A read with Section 34 of the Indian Penal Code.

2. The crime is registered on the basis of a report lodged by the non-applicant No.2 that her marriage was performed on 07.04.2021 with the applicant No.1. After marriage, she resumed cohabitation, but her husband started ill-treating her on her complexion as well as for not

providing dowry in the marriage. She alleged that her mother-in-law, i.e., the applicant No.2, was instigating her and was assaulting her, and the applicant No.3 was also giving her physical and mental torture. On the basis of the said report, the police have registered the crime against the present applicants.

3. Heard learned Counsel for the applicants. She submitted that as far as the allegations in the First Information Report are concerned, they are general in nature. No specific instances are narrated by the non-applicant No.2. The offence under section 498-A is not made out. In view of that, the First Information Report be quashed against the present applicants.

4. Initially learned Counsel Shri Dawada was appointed for non-applicant No.2. During the pendency of the application, learned Counsel Shri Chandan Fulzele appeared, but he submitted that now the brief is already taken by the client, and therefore, he is unable to attend the proceeding therefore the appointed Counsel is requested to continue with the matter.

5. Learned Additional Public Prosecutor and learned Counsel for the non-applicant No.2 strongly opposed the said contentions and submitted that during the investigation, the statements of the witnesses were recorded and specific role is attributed by the informant against the

present applicants. In view of that, the offence is made out, and this application deserves to be rejected.

6. On hearing both sides and on perusal of the investigation papers, it reveals that there are specific allegations as far as applicant No.1 is concerned, who was taunting her on account of her colour complexion as well as he has physically and mentally ill-treated her for demanding the dowry. But as far as applicant Nos. 2 and 3 are concerned, against them general and vague allegations are levelled. On the basis of general and omnibus allegations, they are arraigned as an accused in the present crime. Even considering the case as it is, and the allegations levelled against the applicants, no offence is made out as far as applicant Nos. 2 and 3 are concerned. This type of the complaints or the allegations are considered by the Hon'ble Apex Court in the various matters and particularly in case of ***Preeti Gupta Vs. State of Jharkhand, (2010) 7 SCC 667***, wherein, the Apex Court observed in paragraph Nos. 30, 32, 34 as under :

“30. It is a matter of common knowledge that unfortunately matrimonial litigation is repeatedly increasing in our country. All the Courts in our country including this Court are flooded with the matrimonial cases. This really demonstrates discontent and unrest in the family life of a large number of people in the society.

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32. It is the matter of common experience that most of these complaints under Section 498-A IPC

are filed in the heat of the moment over trivial issues without proper deliberations. We came across a large number of such complaints which are not even bona fide and as filed with oblique motive. At the same time rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.

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34. Unfortunately, at the time of filing of complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to unsurmountable, harassment, agony and pain to the complainant, accused and his close relations.”

7. The Hon'ble Apex Court further observed that now a days it has become a recurring tendency to implicate all the family members in such type of matrimonial offences. In the present case also it appears that merely because the applicant Nos. 2 and 3 are the mother and the brother of the applicant No.1, they appear to have been implicated in the alleged offence.

8. In the case of ***Mange Ram Vs. State of Madhya Pradesh and others, MANU/SC/1066/2025***, the Honble Apex Court has dealt with this aspect and observed that this Court has made it clear that family members of the husband ought not to be unnecessarily roped into criminal proceedings arising out of the matrimonial discord. The Court observed that it has become a recurring tendency to implicate every member of the husband's family, irrespective

of their role or actual involvement, merely because a dispute has arisen between the spouses.

9. In view of the above observations, and considering the facts and circumstances of the case, admittedly, no *prima facie* case is made out against the applicant Nos. 2 and 3, and therefore, the application deserves to be allowed partly. However, the prayer of the applicant No.1 for quashing of the First Information Report deserves to be rejected. Accordingly, we proceed to pass the following order :

ORDER

- i) The application is partly allowed.
- ii) The First Information Report in connection with Crime No. 0013/2023, registered with Police Station Awadhutwadi, under Section 498-A read with Section 34 of the Indian Penal Code, against the non-applicant No. 2 – Ruksar Nadeem Nadaf and non applicant No.3 – Arif Nadeem Nadaf, is quashed and set aside.
- iii) The fees of the appointed Counsel be quantified as per the Rules.

(NANDESH S. DESHPANDE, J.) (URMILA JOSHI-PHALKE, J.)

Jayashree..