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

CRIMINAL APPLICATION (APL) NO.320 OF 2024

1. Awez Sabir Ali Sayyed and others
(Husband)
Aged 39 Years, Occupation : Govt. Job.
 2. Rehana Sayyad w/o Sayyad Sabir,
(mother-in-law)
Aged 60 Years, Occupation : House Wife,
 3. Firoz Sayyad s/o Sayyad Sabir,
(Brother-in-law)
Aged 37 Years, Occupation : Job,
All are above R/o Plot No.24,
Saai Nagar, Zingabai Takali, Nagpur.
 4. Rizwan Sk. Mohd. Baakr Sk.
(Maternal-in-law)
Aged 54, Occupation : Job,
R/o.Hanfiya Masjid, Azad Colony,
Bada Taaj Bag, Nagpur.
 5. Jamil Sk. Mohd. Baakar Sk.
(Maternal-in-law)
aged 73, Occupation: Nil,
Jafar Nagar, Teacher Colony,
Nagpur.
 6. Mohd. Yaqub Sk. Mohd. Bakar Sk.
(Maternal-in-law)
Aged 72, Occupation : Nil,
R/o. Tirodi Ward No.4, Kattangi,
District Balaghat.
 7. Abdul Wahid Khan Abdul Majid Khan,
(Maternal-in-law)
Aged 53, Occupation : Nil.
R/o. Madan Chowk, Machhlipura,
Kamptee.
- APPLICANTS**

// VERSUS //

1. The State of Maharashtra through
Ramnagar Police Station,

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Gondia.

2. Mehroon Nisha Owais Sayyad
R/o Ram Nagar, Bazar Chowk,
Gondia.
Also At:- Plot No.24,
Bakar Billa, Sai Nagar,
Zingabai Takli, Nagpur.

Alternate address of Respondent No.2-

Meherunnisa @ Neha w/o. Mohd. Rizwan
Sabri s/o Mustak,
R/o Chakki Wale, Mukherji Ward,
Ram Nagar, Gondia – 441614.

.... NON-APPLICANTS

Mr. Saud Afsar, Counsel for the applicants.
Mr. N. B. Jawade, APP for non-applicant No.1/State.

**CORAM : URMILA JOSHI-PHALKE AND
NANDESH S. DESHPANDE, JJ.
DATED : 04/09/2025**

ORAL JUDGMENT : [PER: URMILA JOSHI-PHALKE, J.]

1. **Admit.**
2. Heard finally with the consent of the learned Counsel of the parties.
3. The applicant No.1 is the husband and applicant No.2, mother-in-law, applicant No.3 brother-in-law, applicant Nos.4 to 7 are the maternal-in-law are arraigned as an accused in Crime No.187/2018 registered under Section 498A read with Section 34 of the Indian Penal Code, registered on the basis of report lodged by the non-applicant No.2 Mehroon Nisha Owais Sayyad and

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therefore, the present applicants approached to this Court by filing this application under Section 482 of the Code of Criminal Procedure for quashing the aforesaid First Information Report (for short 'FIR') as well as charge sheet bearing No.3/2019.

4 Brief facts which are necessary for the disposal of the application are as under:

The non-applicant No.2 approached to the Ramnagar Police Station, Gondia with an allegation that her marriage was performed with the applicant No.1 on 09.01.2018 as per the Muslim rites and customs. After marriage, she resumed the cohabitation at the house of the present applicants. After marriage, she was treated well for some days and thereafter, she was ill-treated by the applicant No.1 on the instigation of the other applicants by demanding of Rs.1,50,000/- as well as furniture, LED TV, and other household articles. She alleged that she was assaulted, abused by the present applicant No.1, who is her husband on the instigation of other accused/applicants. She specifically alleged that the applicant No.2 – mother-in-law also used to assault her and slapped her on some occasions. On the basis of the said report, the police have registered the crime against the present applicants.

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5. After registration of the crime, the investigation was carried out. The relevant statements are recorded and after completion of investigation, the charge sheet was filed against the present applicants.

6. Heard learned Counsel for the applicants, who submitted that as far as the allegations levelled against the present applicants are concerned, which are general in nature. The non-applicant no.2 is the second wife of the applicant No.1. He has already obtained the decree of divorce as far as his first wife is concerned. He submitted that with a general and omnibus allegations, the present applicants are arraigned as an accused. No purpose will be served by insisting them to face the trial, as the omnibus allegation would not be sufficient to prove the charge against the present applicants. He submitted that during investigation, only the statements of the relatives were recorded. The statement of neighbouring witnesses to ascertain whether really there was ill-treatment or not, are not recorded by the investigating agency. In view of that, the application deserves to be allowed and the proceeding against the present applicants deserves to be quashed and set aside.

7. Learned APP strongly opposed the said application and submitted that during the pendency of the trial, the present applicants have preferred an application for discharge which is

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already rejected. Now the only remedy available to the present applicants to prefer the revision against the said order, but the applicants have not preferred the revision and seek the remedy under Section 482 of the Code of Criminal Procedure and therefore, the application itself is not maintainable and deserves to be dismissed. In addition to it, as far as the merit of the matter is concerned, he submitted that the informant has in detailed alleged against all the applicants that the applicants being the relatives of her husband used to unlawful demand from her and as the demands are not fulfilled, assaulted her and ill-treated her and therefore, she constrained to leave the matrimonial house and took shelter at the house of her parents. Thus, considering the allegation levelled against the present applicants, which is substantiated by various witnesses. The prosecution has every chance of success in the present crime to prove the charges against the present applicants. At this stage, the material which is on record is sufficient to frame the charge against the accused and to prove the charges against all the applicants. In view of that, the application deserves to be rejected.

8. After hearing both sides and on perusal of the entire investigation papers, especially the recitals of the FIR and the statement of the informant, which shows that after her marriage,

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she was ill-treated by the present applicants. On perusal of the entire FIR and her statement and the statements of the other witnesses, it reveals that the allegation against the applicant No.1 and 2 are the specific allegations along with the instances which she has narrated. As far as the other applicants are concerned, i.e. applicant No.3 is the brother-in-law, who is residing separately and applicant Nos.6 and 7 are not residents of Nagpur, whereas applicant Nos. 4 and 5, though residents of Nagpur, they are residing separately from the applicant Nos.1 and 2 and the informant.

9. Before entering into the merits of the case, it is required to see what is the settled law as far as the provisions under Section 498A of IPC is concerned, in catena of decisions the Hon'ble Apex Court has considered the aspect of implicating all the relatives when the offence is registered under Section 498A of Indian Penal Code. In a recent judgment in **Mange Ram Vs State of Madhya Pradesh and Ors** reported in **MANU/SC/1066/2025**, the Hon'ble Apex Court has dealt with the ingredients of the offence and observed that "Section 498A of the IPC prescribes the punishment where a woman is subjected to cruelty by her husband or his relatives. The offence is punishable with imprisonment for a term which may extend to three years and also provides for fine. The Explanation appended

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to the provision defines "cruelty" in two parts. Clause (a) refers to 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 her life, limb or health, whether mental or physical. Clause (b) expands the scope of the term to include harassment with a view to coercing the woman or her relatives to meet any unlawful demand for property or valuable security, or on account of failure to meet such demand.

10. By referring to its earlier judgment in the case of **Dara Lakshmi Narayana vs. State of Telangana, reported in MANU/SC/1309/2024**, the Hon'ble Apex Court held 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 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. It was further held that where the allegations are bereft of specific particulars, and particularly where the relatives sought to be prosecuted are residing separately or have had no connection with the matrimonial home, allowing the prosecution to proceed would amount to an abuse of the process of law. The Court noted that criminal law is not to be deployed as an instrument of

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harassment, and that judicial scrutiny must be exercised to guard against such misuse.

11. The similar observation is made by this Court also by referring the judgment of **Preeti Gupta & Anr vs State of Jharkhand & Anr** reported in **(2010) 7 SCC 667** and **Kahkashan Kausar @ Sonam vs The State of Bihar and others** reported in **(2022) 6 SCC 599**, wherein also it is observed that allegation of the harassment by the husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant wife resided would have an entirely different complexion. Such allegations of the complainant are required to be scrutinized with great care and circumspection. In the case of **K. Subba Rao Vs. The State of Telangana** reported in **(2018) 14 SCC 452**, wherein it is held that criminal proceedings are not normally interdicted by us at the interlocutory stage unless there is an abuse of process of a Court. This Court, at the same time, does not hesitate to interfere to secure the ends of justice. The Courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out.

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12. It is not disputed that the applicant Nos.1 and 2 are residing with the informant. But as far as the applicant Nos.3 to 7 are concerned, admittedly, they were residing separately. The allegation as to the unlawful demand and the harassment at their hands are the omnibus allegations. It is time and again held by the Hon'ble Apex Court that the Courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. By considering the observation of the Hon'ble Apex Court, admittedly, in the present case, there are specific allegations against the applicant Nos.1 and 2, but as far as the applicant Nos.3 to 7 are concerned, admittedly, general allegations are levelled against them, which in the nature of omnibus allegations. As observed by the Hon'ble Apex Court and considering the scope and ambit of courts' powers under Section 482 Cr.P.C are inherent power to do real and substantial justice, and to prevent the abuse of the process of the court. It is also time and again held by the Hon'ble Apex Court that inherent powers under Section 482 Cr.P.C. though wide have to be exercised sparingly, carefully and with great caution and only when such exercise is justified by the tests specifically laid down in this section itself. Authority of the court exists for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the Court, then the

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Court would be justified in preventing injustice by invoking inherent powers in absence of specific provisions in the Statute.

13. In the light of the above observations and the reasons recorded as above, we are of the considered opinion that, the First Information Report registered against the applicants vide Crime No.187/2018 and the charge sheet No.3/2019 filed by the Police Station, Ramngar, Gondia, deserves to be quashed, to the extent of applicant Nos.3 to 7. Hence, we proceed to pass following order:

ORDER

(i) The application is **partly allowed**.

(ii) The First Information Report registered with Police Station Ramnagar, District Gondia, for the offence punishable under Section 498A of the Indian Penal Code, bearing First Information Report No.187/2018 and charge sheet bearing No.3/2019, are hereby quashed and set aside to the extent of applicant Nos.3 to 7.

(iii) The prayer of the applicant Nos.1 and 2 for quashing of the proceedings against them is hereby rejected.

(iv) The parties to bear their own costs.

The application is disposed of.

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