



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

CRIMINAL APPLICATION [APL] NO.682 OF 2021

1. Shri Nihar s/o Ashok Sarthi,
Aged about 42 years,
Occupation-Service,
R/o. Shanti, Ramtekadi,
Plot No.5/21, Hadpsar, Pune.
2. Smt. Suniti w/o Ashok Sarthi,
Aged about 68 years,
Occupation-Household,
R/o. Shanti, Ramtekadi,
Plot No.5/21, Hadpsar, Pune. .. Applicants

.. Versus ..

1. State of Maharashtra, Through -
Police Officer, Police Station,
Narkhed, Nagpur.
2. Swapnil s/o Shankarrao Narnaware,
Aged about 35 years,
Occupation-Service,
R/o. Ward No.01, Narkhed,
District-Nagpur. .. Non-Applicants

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Shri Yogesh Vaidya and Shri Prakash Nayyar, Advocate for
Applicants,
Shri A.B. Badar, Additional Public Prosecutor for Non-Applicant
No.1/State.
Shri Sachin S. Despande, Advocate for Non-Applicant No.2.

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CORAM : ANIL S. KILOR AND
PRAVIN S. PATIL, JJ.
RESERVED ON : 11th JUNE, 2025.
PRONOUNCED ON : 16th JUNE, 2025.

JUDGMENT [Per : Pravin S. Patil, J.]

1. **Rule.** Rule made returnable forthwith. By consent of the learned Counsel for parties, the matter is taken up for final disposal.

2. By this application, the applicants are seeking quashment of Regular Criminal Case No.84/2021 pending on the file of learned Judicial Magistrate, First Class, Narkhed, District-Nagpur arising out of Chargesheet No.45/2021 dated 03.08.2021 and Crime No.35/2021 for commission of offence under Sections 498-A and 406 r/w 34 of the Indian Penal Code registered with Police Station, Narkhed, District-Nagpur.

3. In short, the case of the prosecution is that on 11.02.2021, Swapnil Shankarrao Narnaware, who is the brother of Yogita, lodged a police complaint on her behalf, alleging that after the marriage of his sister with applicant no.1 on

19.06.2016, for initial days, the applicants had given good treatment to his sister. However, thereafter there was continuous demand of gold articles from applicant and his family. All those demands were satisfied time to time by the family members of the complainant.

4. It is stated that on 12.07.2019, due to health issue, his sister Yogita was at his house at Thane. She was admitted by him at Hinduja Hospital, Mumbai. After her hospitalization, it is revealed that she is suffering from chronic disease of Cancer. He further stated that he borne all the hospital expenses. After she recovered from the Cancer, on 25.01.2020 went to the house of applicants, however, she was not allowed to enter in the house by stating that unless she pays Rs.8,00,000/- they will not allow her to cohabit with the applicants' family. As such, on the basis of these allegation, the offence as aforestated came to be registered against the present applicants.

5. The present applicants is the husband and mother-in-law of Yogita. It is the contention of the present applicants that

the informant/non-applicant no.2, who is the person behind the curtain, lodged the complaint with an ulterior motive to recover the amount of expenditure which he has made on his sister during her illness of Cancer at hospital. It is stated that Yogita expired on 12.02.2024 i.e. on the next day of lodgment of F.I.R. in question. Furthermore, it is stated that the allegations made against the applicants do not constitute the offence under Section 498-A of the Indian Penal Code. Hence, for all these reasons, a prayer is made to the effect that offence registered against them may be quashed and set aside.

6. The learned counsel appearing for non-applicant no.2 vehemently opposed the application and stated that it is a clear from the allegation made in the complaint that his sister Yogita was harassed by the applicants. Applicants did not attend her during her illness and made demand of the amount of Rs.8,00,000/- when she went to applicants for cohabitation. Hence, according to him, prima facie offence under Section 498-A of the Indian Penal Code is attracted, hence, the application deserves to be rejected.

7. Learned Additional Public Prosecutor appearing for non-applicant no.1/State stated that there are specific allegation of demand of various articles and amount from the applicants. Furthermore, she was not extended full cooperation during her illness and, therefore, this non-cooperation amounts to cruelty and hence the offence is rightly registered against the present applicants.

8. Heard the respective counsels appearing in the matter and with their assistance, we have perused the record.

9. It is the submission of the applicants that in the present case, non-applicant no.2, who is the brother of his wife, is having a vested interest to recover the expenditure which he had made done on the illness of his sister Yogita and, therefore, he has find out novel way to recover the amount. According to him, the issue was triggered up when he issued the legal notice dated 15.01.2021 to his wife Yogita stating that after detection of Cancer, she being at her matrimonial house, avoiding to contact the applicants and, therefore, for her better treatment

and to take second opinion of Doctor, he requested to his wife to provide him the history of convulsions before marriage along with present medical treatment. But instead of his wife, non-applicant no.2 had replied to his notice. From the reply of non-applicant no.2, it is clear that his whole intention was to recover the money and golden articles which were lying in the possession of the present applicants. Thus, from this material, a conclusion can be drawn that non-applicant no.2 was/is intending to recover the money, articles etc. from applicants. Furthermore, no reason is stated as to why Yogita i.e. wife of applicant did not come forward to reply the notice, particularly when it is alleged that when she went to the house of applicants on 25.01.2020, she was not allowed to enter in the house, which means she was having good health condition.

10. The applicants further submitted that the perusal of averments made in the complaint and the record available in the form of chargesheet, revealed the fact that the sister of non-applicant no.2 was residing with him after detecting the Tumor/Cancer since 12.07.2019 and narrated him about harassment at the hands of applicants. However, the police

report came to be lodged on 11.02.2021. Hence, there is a unexplained delay of near about two years.

11. Allegation against the applicants that during the treatment of non-applicant no.2 in Hinduja Hospital at Bombay, present applicants did not pay any attention, seems to be incorrect. The bare perusal of reply to the notice by non-applicant no.2 dated 30.01.2021, it is admitted fact that the present applicants spent Rs.1,75,000/- and also shown his willingness to made available medical policy drawn in his family name. He further admitted that the applicants used to visit hospital regularly, but the amount required for registration, appointment of Doctor is borne by him. From reply of notice, it is clear that the applicant no.1 was in visiting terms with his wife during her illness.

12. The bare perusal of record shows that allegations did not come out from the mouth of Yogita. Rather on her behalf, non-applicant no.2 lodged the complaint during her lifetime.

13. The Investigation Officer did not record the statement of Yogita during her life time to substantiate the allegations against the applicants.

14. Furthermore to constitute the offence under Section 498-A of the Indian Penal Code, as per settled position of law, accusation must be specific with time, date, place and nature of harassment. But, in the present case, the allegations made against applicants do not satisfy the pre-requisites of offence under Section 498-A of the Indian Penal Code. According to us, allegations are vague and omnibus in nature.

15. In the light of above referred observation, no offence is made out against the present applicants. Rather we are of the considered opinion that in the present case the allegations made by non-applicant no.2 in the first information report seems to be motivated by a desire for retribution rather than a legitimate grievance. Hence, present application deserves to be allowed and accordingly we proceed to pass the following order :

O R D E R

(i) Criminal Application is allowed.

(ii) The proceeding of Regular Criminal Case No.84/2021 pending on the file of learned Judicial Magistrate, First Class, Narkhed arising out of Chargesheet No.45/2021 dated 03.08.2021 and Crime No.35/2021 for commission of offence under Sections 498-A, 406 r/w 34 of the Indian Penal Code registered with Police Station, Narkhed, District-Nagpur, is hereby quashed and set aside.

(iii) Rule is made absolute in the above terms.

(Pravin S. Patil, J.)

(Anil S. Kilor, J.)