



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

CRIMINAL APPLICATION [APL] NO.515 OF 2024

1. Sarfaraz s/o Hanif Nirban (husband)
Age : 37 Years, Occ : Labour
R/o. Behind Bhusar Market,
Subhash Chock, Pusad, Dist. Yavatmal.
2. Shakeela Hanif Nirban (mother-in-law)
Age : 62 Years, Occ : Housewife
R/o. Behind Bhusar Market,
Subhash Chock, Pusad, Dist. Yavatmal.
3. Hanif Gulab Nirban (father-in-law)
Age : 65 Years, Occ : Agriculture
R/o. Behind Bhusar Market,
Subhash Chock, Pusad, Dist. Yavatmal.
4. Soheli Hanif Nirban (brother-in-law)
Age : 28 Years, Occ : Labour
R/o. Behind Bhusar Market,
Subhash Chock, Pusad, Dist. Yavatmal.
5. Mubarak Gulab Nirban (Uncle-in-law)
Age : 58 Years, Occ : Agriculture
R/o. dhankeshwar gram panchayat Post
Pardi, Pusad, Dist Yavatmal.
6. Noorjahan Mubarak Nirban (Aunty-in-law)
Age 52 Years, Occ : Housewife
R/o. Mominpura Near Khaja Fakhroddin
Chishti Masjid, Pusad, Dist. Yavatmal.
7. Mohsin Mubarak Nirban (Cousin brother-in-law)
Age 36 Years, Occ : Labour
R/o. Mominpura Near Khaja Fakhroddin Chishti
Masjid, Pusad, Dist. Yavatmal.

8. Azar Mubarak Nirban (Cousin brother-in-law)
Age 34 Years, Occ : Labour
R/o. Mominpura Near Khaja Fakhroddin Chishti
Masjid, Pusad, Dist. Yavatmal.
9. Mustaq Haji Gulab Nirban (Uncle-in-law)
Age 50 Years, Occ. Agriculture
R/o. Behind Bhusar Market,
Subhash Chock, Pusad, Dist. Yavatmal.
10. Mumtaz Mustaq Nirban (Aunty-in-law)
Age 47 Years, Occ :: Housewife
R/o. Behind Bhusar Market,
Subhash Chock, Pusad, Dist. Yavatmal.
11. Ashpak Mustak Nirban (Cousin Brother-in-law)
Age 30 Years, Occ : Labour
R/o. Behind Bhusar Market
Subhash Chowk, Pusad, Dist. Yavatmal.
12. Akbar Mustaq Nirban (Cousin Brother-in-law)
Age 28 Years, Occ : Labour
R/o. Behind Bhusar Market
Subhash Chock, Pusad, Dist. Yavatmal.
13. Tarunnum w/o Yusuf Sigad (sister-in-law)
Age 40 Years, Occ : Housewife
R/o. Near old bus stand Ansing Dist. Washim
14. Yusuf Ismail Sigad (Brother-in-law)
Age 45 Years, Occ : Labour
R/o. Ansing, Dist. Washim.
15. Madina Javed Ghorl (Sister-in-law)
Age 32 Years, Occ : Housewife
R/o. post khaknar, Burhanpur, MP
16. Ruksar Amen Ghorl (sisterinlaw)
Age 30 Years, Occ : Housewife
R/o. post khaknar, Burhanpur, MP

17. Pinky Gaikwad

Age 37 Years, Occ : Household

R/o. Sambhaji Nagar, Pusad

Dist. Yavatmal.

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Applicants

.. Versus ..

1. The State of Maharashtra,
Through its P.I. Police Station Pandarkavda,
Tq. Pandarkavda, Dist. Yavatmal.
(Copy to be served on the office of the
Public Prosecutor, High Court Bench
Nagpur)

2. Nikhat Nasrin w/o Sarfaraz Nirban
Age 36 years, Occ : Retailer
R/o. Runja, Tq. Pandarkawada,
Tq. Kelapur, Dist. Yavatmal.

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Non-Applicants

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Mr. Shaikh Mohd. Rizwan, Advocate for Applicants.

Mr. S.S. Doifode, Additional Public Prosecutor for Non-Applicant No.1/State.

Mr. Vijay Hamand, Advocate for Non-Applicant No.2.

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

DATED : 25th MARCH, 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. This is an application filed under Section 482 of the Code of Criminal Procedure, 1973 to quash the first information report in Crime No.0039/2024 registered with Police Station Pandarkawada, District - Yavatmal for the offence punishable under Sections 498-A, 506 read with Section 34 of the Indian Penal Code, 1860.

3. The case of the prosecution, in short, is that the non-applicant no.2, being wife of applicant no.1, on 20.01.2024 lodged police report stating that applicant no.1-husband being a businessman used to come late night at home and sometimes not coming to the home. He always used to harass her by asking to bring several amount from the parental house. She alleged that applicant no.1 is having illicit relations with

accused no.17 i.e. Pinky Gaikwad. On getting the knowledge of his illicit relations, she has called all the distant family members to her paternal house. In the said meeting, instead of giving understanding to the applicant no.1-husband, all the applicants forced and threatened her and asked to continue matrimonial relations with applicant no.1. Accordingly, against her wish, she has started residing with her husband along with two children.

It is alleged by informant that accused no.13 Tarannum Yusuf Sigad and accused no.14 Yusuf Ismail Sigad used to reside at the residence of her husband up to five to six months and at that time they used to torture her.

It is alleged by informant that on 11.04.2018 at around 2.00 pm, her husband, father-in-law and mother-in-law asked her to bring Rs.10,00,000/- (Rs. Ten Lacs only) from her paternal house. Therefore, she has called her father and along with him, went to the paternal house. As such, since 11.04.2018, she is residing at the mercy of her father at paternal house.

It is alleged by non-applicant no.2 that on 04.07.2023, her husband along with relatives came to her

paternal house and stated that he is ready to cohabit with the non-applicant no.2 on the condition that, family members of informant should pay him Rupees Ten Lacs, otherwise he will lodge false complaint against her. In the circumstances, non-applicant no.2 lodged police complaint against applicants on 20.01.2024 at Police Station Pandarkavada, District-Yavatmal.

4. We have perused the record and considered the submissions advanced by the learned counsels for the respective parties.

5. It is not disputed in the matter that the applicant no.1 is husband, applicant nos.2, 3 and 4 are mother-in-law, father-in-law and brother-in-law of non-applicant no.2. Applicant nos.5 to 12 are uncle-in-law, aunty-in-law and cousin brother-in-law of non-applicant no.2. Applicant nos.13 to 16 are sister-in-law and brother-in-law of non-applicant no.2. Applicant no.17 is Pinky Gaikwad with whom informant's husband having illicit relations.

6. It is also clear from the record that the applicant-husband on 14.12.2023 filed application before the Civil Court at Pusad for Restitution of Conjugal Right. Therefore, it seems that to give the counter blast to the said proceeding, the non-applicant no.2 has lodged the police report against the applicants on 21.01.2024 i.e. immediately after the receipt of suit summons from Civil Court.

7. It is also clear from the record that the non-applicant no.2 had filed Civil Suit for partition against the husband and other family members. The same is registered before the learned Civil Judge, Junior Division, Kelapur as Regular Civil Suit No.56/2024 and presently the same is pending. Therefore, it is clear that, non-applicant no.2/informant to settle her personal goals against husband and her relatives, trying to misuse of Section 498-A of the Indian Penal Code.

8. While considering the present matter in which offence is registered under Section 498-A of the Indian Penal Code, it will be relevant to consider whether allegations raised by informant satisfied the pre-requisite required under the

provisions of law.

9. In the present case, from the allegations of the first information report, it is clear that non-applicant no.2 is not subjected to such cruelty to drive her to commit suicide or to cause grave injury or danger to life, limb or health. Furthermore, she has not specifically made any allegations against the relatives of the applicants nor stated what kind of harassment was caused to her at their hands. All the allegations against the family members are of vague and omnibus in nature. As such, *prima facie*, the allegations levelled against the family members do not attract Section 498-A of the Indian Penal Code.

10. From the contents of the first information report, it is clear that the distant relatives of husband are roped in the matter by informant/non-applicant no.2 only to settle the score against the husband. There is no direct involvement of any of them to cause any harassment to the non-applicant no.2. It is further pertinent to note that from the contents of the first information report itself, it is clear that the non-applicant is

residing with her father i.e. at paternal home since 11.04.2018, however, the first information report is lodged on 21.01.2024 i.e. near about after a period of six years. There is no explanation of any kind from informant as to why there is inordinate delay in lodging the complaint against the applicants.

11. In support of above reasoning it would be relevant to refer the law laid down by the Hon'ble Supreme Court of India in some of the cases, namely *Preeti Gupta .vs. State of Jharkhand*, (2010) 7 SCC 667, *Geeta Mehrota and another .vs. State of U.P. and others*, (2012) 10 SCC 741, *Arnesh Kumar .vs. State of Bihar*, (2014) 8 SCC 273, *Rajesh Sharma .vs. State of U.P.* (2018) 10 SCC 472 and *Kahkashan Kushad .vs. State of Bihar*, (2022) 6 SCC 599, wherein Hon'ble Apex Court time and again observed that "incorporation of Section 498-A of IPC was with an aim of preventing cruelty committed upon a women 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 increased significantly and there is a greater dis-affection and friction surrounding the institution of marriage, now, more than ever. This has resulted

in an increased tendency to employ provisions such as Section 498-A of IPC as an instrument to settle personal scores against the husband and his relatives.” It is further observed that “this court has at numerous instances expressed concern over the misuse of Section 498-A of IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analyzing the long term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgment 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.”

12. In the light of observation of Hon’ble Supreme Court of India, we have perused the first information report in question and found that the allegations made against the family members of husband are vague and general. The allegations levelled against the family members do not make out offence under Section 498-A of IPC.

13. It is clear from record that there are no allegations against family members of husband that they have threatened with any injury to informant or her reputation, therefore, no offence is made out under Section 506 of the Indian Penal Code against them.

14. In the circumstances, applicant no.2 to 17 cannot be allowed to be prosecuted for the offence under Sections 498-A, 506 read with Section 34 of the Indian Penal Code. Continuation of criminal proceeding against the family members, according to us, is an abuse of process of law.

15. The allegation against the husband to the extent that he used to give ill-treatment mentally and physically, at this stage, cannot be said to be vague and omnibus. The proceeding can be continued against the applicant no.1-husband. For the aforesaid reasons, we proceed to pass the following order :

ORDER

(i) Application is dismissed against applicant no.1.

(ii) Application is allowed against applicant nos.2 to 17.

(iii) First Information Report registered with Police Station Pandarkawada, District-Yavatmal against applicant nos.2 to 17 for offence punishable under Sections 498-A, 506 read with Section 34 of the Indian Penal Code, vide Crime No.39/2024, is hereby quashed and set aside.

(iv) Rule is made absolute in the aforesaid terms.

(Pravin S. Patil, J.)

(Anil S. Kilor, J.)