



(1)

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

CRIMINAL APPLICATION (APL) NO.511 OF 2024

1. Bhikaji @ Bhushan Kisanrao,
Shewalkar,
[Father-in-law of N.A. 2]
Aged about 62 Years,
Occupation : Pvt. Work.
2. Kanta w/o Bhikaji @ Bhushan
Shewalkar [Mother-in-law of N.A.2]
Aged 60 Years,
Occupation : Retired Housewife.
3. Ku. Sanskruti Bhikaji @ Bhushan
Shewalkar [Sister-in-law of N.A.2]
Aged about 24 Years,
Occupation : Education.

Applicant Nos.1 to 3 R/o. Near Swami
Samarth Mandir, Parvati Vihar,
Rahatgaon, Deep Pratistha Gruh
Nirman Colony, Amravati,
Taluka and District Amravati – 444603.

4. Mandu w/o Rameshwar Kirtane,
[Sister of applicant No.2]
Aged about 58 Years,
Occupation : Service,
R/o Near Gulabbaba Darbar,
Dhamangaon Railway,
District Amravati – 444709.
5. Sunil s/o Nilkanthrao Manekar,
Aged about 54 Years,
Occupation : Service,
R/o. Rajni Chowk, Shukrawar Peth,
Washim, Taluka and District
Washim – 444505
[Brother-in-law of applicant No.2]
6. Rajendra s/o Pundalikrao Gayki,
Aged about 72 Years,
Occupation : Retired,

(2)

R/o. At Post Kinkhed,
Taluka Akot,
District Akola 444101.
[Brother of Applicant No.2]

7. Rameshwar s/o Balkrishna Kirtane,
Aged about 59 Years,
Occupation : Retired,
R/o Ward No.2, Behind LIC Office,
Lunawat Nagar, Dhamangaon
Railway, District Amravati – 444709.
[Husband of applicant No.4]

..... APPLICANTS**// VERSUS //**

1. State of Maharashtra,
Through Police Station Officer,
Gadge Nagar, Amravati,
Taluka and District Amravati.
2. Dakshayani w/o Suraj Shewalkar,
Aged 31 Years,
Occupation : Government Medical
Officer,
R/o. C/o Ravindra S. Anwanne,
Plot No.22A, B, Shradha
Vihar Colony, Navsari,
Amravati, Taluka and
District Amravati 444 604.

....NON-APPLICANTS

Mr. P. R. Agrawal, Counsel for the applicants.
Ms. H. N. Prabhu, APP for non-applicant No.1/State.

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

**RESERVED ON : 19.09.2025
PRONOUNCED ON : 29.09.2025**

JUDGMENT : (PER: URMILA JOSHI-PHALKE, J.)

1. **Admit.**
2. Heard finally with the consent of the learned Counsel of
the parties.

(3)

3. The applicants have approached this Court under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.') with a prayer to quash and set aside the charge sheet No.554/2024 arising out of the Crime No.141/2024 registered with Police Station Gadge Nagar, Amravati for the offence punishable under Sections 294 and 498A read with Section 34 of the Indian Penal Code.

4. The applicant Nos. 1 and 2 are the in-laws and applicant No.3 is the sister-in-law whereas, the applicant No.4 is the sister of applicant No.2, applicant No.5 is brother-in-law and applicant No.6 is brother of the applicant No.2, whereas applicant No.7 is the husband of applicant No.4 against whom the crime is registered on the basis of report lodged by the informant, on an allegation that her marriage with the son of the applicant No.1 and 2 was performed on 20.11.2021. After marriage, she resumed the cohabitation at the house of the present applicants, but she was not treated well. At the time of marriage, false information was given by the applicants to her family that her husband is having job in Haldiram Nagpur as a Manager and earning Rs.40,000/- per month, and he has cleared the written MPSC examination and would be appointed as Sub-District Officer after three months. She was serving as Medical Officer and managing the household. She was incurring the expenses towards day-to-day affairs of the house, but she was insisted to incur the expenses for the education of applicant

(4)

No.3 also. She has delivered a baby girl on that count also she was abused and ill-treated by the present applicants and therefore, she approached the Police Station and lodged a report. On the basis of the said report, police have registered the crime against the present applicants.

5. Heard learned Counsel for the applicants, who submitted that the non-applicant No.2 was never desiring the cohabit with the present applicants. She was intending that her husband should reside along with her wherever she has been posted. Prior to the lodging of the FIR, she had issued the notice to the co-accused husband Suraj Shewalkar, wherein no such allegations were levelled by her as far as the ill-treatment at the hands of the present applicants are concerned. He further submitted that applicant No.3 is taking education in Russia prior to the marriage of the non-applicant No.2 and the co-accused. The applicant Nos.5, 6, 7 are also residing separately. As far as the applicant Nos.1 and 2 are concerned, merely because they are the parents, these false allegations are levelled against them. Considering the nature of the allegations, no *prima facie* case is made out against them, and therefore, the application deserves to be allowed.

6. Per contra, learned APP strongly opposed the said application and submitted that the recitals of the FIR and the notice

(5)

issued by the non-applicant No.2, sufficiently shows that she was ill-treated and due to the ill-treatment, she was constrained to leave the matrimonial house. The allegations against the present applicants are of serious nature, in view of that, the application deserves to be rejected.

7. Despite service of the notice and after filing of the rely, none appears for the non-applicant No.2, after giving sufficient opportunity.

8. The Investigation Officer after registration of the crime, recorded the relevant statements of the witnesses and submitted charge sheet against the applicants.

9. We have considered the submissions advanced by the learned Counsel for the respective parties, who have also gone through the contents of the FIR and the statement of witnesses in the charge sheet. Undisputedly, the marriage between the present non-applicant No.2 and the co-accused Suraj was performed on 20.11.2021. The couple is blessed with one daughter till issuance of notice i.e. 12.02.2023, no previous complaint as regards the demand and ill-treatment during this period was lodged. Initially, the non-applicant No.2 has issued the notice dated 12.02.2023 through her Counsel, wherein she has only alleged against her husband. As far as the allegations against the present applicants are concerned, there is no whisper except the general allegations

(6)

against the applicant Nos.1 and 2. As far as the rest of the applicants are concerned, admittedly, no allegations were levelled by her in the said notice. The said notice is replied by the son of the applicant Nos.1 and 2 and on 05.03.2023. After issuance of the reply, the son of the applicant has filed the petition bearing No.A-89/2023 for restitution of Conjugal Right, and thereafter to give a counterblast to the said petition, the present FIR came to be lodged. The careful scrutiny of the FIR shows that vague, general and omnibus allegations are levelled against the present applicants. As per the allegations, she was forced to incur the expenses towards the education of applicant No.3, in fact, applicant No.3 is taking education in Russia prior to her marriage. Though she has alleged that the present applicants have demanded the expensive articles, but no instances or particulars of such demand are narrated by her. The omnibus statement is made that the in-laws were ill-treating her in pursuance of the said demand. It is pertinent to note that these allegations were not made at the earlier point of time when she issued a notice to her husband.

10. At this stage, reference can be given to Section 498A of the Indian Penal Code which reads as under:

"498A. Husband or relative of husband of a woman subjecting her to cruelty -- Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with

(7)

imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation -- For the purpose of this section, "cruelty" means-

(a) 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; or

(b) Harassment of the woman where 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 meet such demand."

11. On careful scrutiny of the charge sheet shows that the statements of the parents of non-applicant No.2, her relatives have been recorded. No statements of independent witnesses or neighbours were recorded as far as the ill-treatment is concerned. All the statements are omnibus, stereotype and not giving any specific instances about the ill-treatment and demands for the expensive articles.

12. The Hon'ble Apex Court in the case of **Preeti Gupta & Anr vs State of Jharkhand & Anr** reported in **(2010) 7 SCC 667** wherein the apex Court observed in para Nos.30, 32 and 34.

(8)

"30. It is a 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 come across a large number of such complaints which are not even bona fide and are 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.

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

34. Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases."

13. In another case in **Kahkashan Kausar @ Sonam vs The State of Bihar** reported in **(2022) 6 SCC 599** wherein after referring the catena of decisions the Hon'ble Apex Court observed as under:

"The above-mentioned decisions clearly demonstrate that this court has at numerous instances expressed concern over the misuse of section 498A IPC and the

(9)

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. Section 498A of IPC prescribes 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 provide for fine. The explanation appended 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 life, limb or health, whether mental or physical. Clause (b) extends the scope of term to include harassment with a view to coercing the woman or her relative to meet any unlawful demand for property or valuable security or is on account of failure to meet such demand."

15. The inclusion of Section 498-A of the IPC by way of an amendment was intended to curb cruelty inflicted on a woman by

(10)

her husband and his family, ensuring intervention by the State. However, at present there have been a notable rise in matrimonial disputes accompanied by growing discord and tension within the families consequently, there has been a growing tendency to misuse provisions like Section 498-A of the IPC as a tool for gaining personal vendetta against the husband and his family by a wife. "Making vague and generalised allegations during matrimonial conflicts, if not scrutinized, will lead to the misuse of legal processes and an encouragement for use of arm-twisting tactics by the other party and the family members. Sometimes, recourse is taken to invoke Section 498A of the IPC against the husband and his family in order to seek compliance with the unreasonable demands of a wife.

16. The Hon'ble Apex Court in the case of **Dara Lakshmi Narayana and others vs. State of Telangana and another** reported in **MANU/SC/1309/2024** wherein it is observed that:

"We are not, for a moment, stating that any woman who has suffered cruelty in terms of what has been contemplated under Section 498A of the IPC should remain silent and forbear herself from making a complaint or initiating any criminal proceeding. That is not the intention of our aforesaid observations but we should not encourage a case like as in the present one, where as a counterblast to the petition for dissolution of marriage sought by the first appellant-husband of the

(11)

second respondent herein, a complaint under Section 498A of the IPC is lodged by the latter. In fact, the insertion of the said provision is meant mainly for the protection of a woman who is subjected to cruelty in the matrimonial home primarily due to an unlawful demand for any property or valuable security in the form of dowry. However, sometimes it is misused as in the present case."

17. The Hon'ble Apex Court further refers its earlier decision in the case of **G.V. Rao vs. L.H.V. Prasad, (2000) 3 SCC 693** wherein it has been observed that:

"12. There has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties

(12)

lose their "young" days in chasing their "cases" in different courts."

18. In the light of the above principles laid down by the Hon'ble Apex Court, if the facts of the present case are taken into consideration, it shows that as far as the present applicants are concerned against whom the omnibus and general allegations are levelled. Even applicant No.3 is not residing along with the non-applicant No.2 and her husband. The other applicants i.e. applicant Nos.4 to 7 are also residing separately, but as observed by the Hon'ble Apex Court in the case of **Dara Lakshmi Narayana and others vs. State of Telangana and another** referred supra 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

(13)

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

19. Keeping in mind the above said observations and the contents of the FIR and the charge sheet in the present case, it can be observed that no case can be made out against the applicants for charge offences on the basis of vague and omnibus allegations. If we consider the guidelines issued by the Apex Court in the aforesaid matters, there is reason to believe that the present FIR and the criminal proceeding are an abuse of process of law. We are therefore inclined to exercise our jurisdiction under Section 482 of Cr.P.C. and pass the following order:

ORDER

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

(ii) The charge sheet bearing No.554/2024 dated 06.09.2024 arising out of Crime No.141/2024 registered with Police Station Gadge Nagar, Amravati, District Amravati, for the offence punishable under Sections 294 and 498A read with Section 34 of the Indian Penal Code, is hereby quashed and set aside to the extent of the applicants herein.

The application stands disposed of in the above said terms.

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