



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

Criminal Application (APL) No. 571 of 2024

1. Ashok S/o Narayan Sapate,
Aged about 63 years, Occ. Service,
R/o Vyankatesh Colony, Wadai Naka,
Tq. and District Amravati
2. Jayashree W/o Ashok Sapate,
Aged about 57 years, Occ. Service
R/o Vyankatesh Colony, Wadai Naka,
Tq. and District Amravati

... Applicants

// VERSUS //

1. State of Maharashtra through Police Station
Officer, Police Station Pandharkawada, Tah.
Kelapur, District Yavatmal
2. Rucha W/o Pankaj Sapate,
R/o At present Akhada Ward, Pandharkawada,
District Yavatmal

... Non-applicants

Shri K.R.Jain, Advocate a/w Shri V.S.Giramkar, Advocate and Shri
P.S.Lingayat, Advocate for the applicants.
Shri Sagar Ashirgade, APP for the non-applicant no.1/State.

**CORAM : ANIL S. KILOR &
PRAVIN S. PATIL, JJ.**

DATED : 23rd APRIL, 2025.

ORAL JUDGMENT : (PER : PRAVIN S. PATIL, J.)

Rule. Rule is made returnable forthwith. By consent of the
learned counsel for the parties, the matter is taken for final disposal.

2. By this application, the applicants are seeking to challenge the Regular Criminal Case No. 208 of 2023 pending before the Judicial Magistrate First Class, Kerapur, District Yavatmal arising out of Charge-Sheet vide Crime No. 1062 of 2023 dated 8th September, 2023 for the offence punishable under Sections 498-A, 323, read with Section 34 of Indian Penal Code.

3. In short, the case of the prosecution is that non-applicant no.2 on 8th September, 2023 lodged the police complaint alleging that after her marriage with accused No.1 Pankaj Sapate on 14th May, 2020 she was subjected to ill-treatment at the hands of applicants. The allegations against the present applicants are that they used to instigate her husband by giving ill-treatment to her. As such on this allegation, the offence came to be registered under Sections 498-A, 323 read with Section 34 of the Indian Penal code.

4. In the present case, the applicants before this Court are the father-in-law and mother-in-law of the non-applicant no.2. It is their submission that even if the allegations made in the police complaint and

statement of non-applicant no.2 is accepted in its entirety, no offence is made out against them. Hence, on the basis of this submission they prayed to quash and set aside the criminal proceedings registered against them.

5. On the other hand, learned Additional Public Prosecutor strongly opposed the application stating that after registration of the offence, the investigating agency has investigated the matter into allegations and after recording of the statement, it is clear that all the allegations are *prima facie* correct and therefore, it is not a fit case to quash and set aside, the criminal proceeding registered against the present applicants.

6. In the present case, the non-applicant no.2 though served through Court, failed to file any reply in the matter or to attend the matter therefore, we proceed with the matter in absence of non-applicant no.2.

7. After considering the rival submission of applicant as well as learned Additional Public Prosecutor, we have perused the First

Information Report and the statement recorded by the Investigating Agency in the matter.

8. From the perusal of the record, it is clear that after the complaint lodged by non-applicant no.2, the matter was referred to the women counseling centre, Police Station Pandarkawada, District Yavatmal. The said women counseling center submitted the report to Police Station dated 7th September, 2023 wherein it is recorded that the non-applicant do not want to reside with father-in-law and mother in law, she wants to reside separately with her husband. As such on this count, the counseling was failed before the Women Counseling Centre, Kelapur.

9. From the First Information Report and the statement of complainant and other witnesses, it is clear that there are no specific allegations made against the present applicants who are father-in-law and mother in law, of giving ill-treatment to constitute the offence under Section 498A of the Indian Penal Code. Only allegations against them are of instigation to husband against non-applicant no.2. Except the allegations of instigation, we could not find any specific details, describing any particular incident of harassment at the instance of applicants.

As such, allegations levelled by the non-applicant no.2 against the present applicants are vague and omnibus.

10. From the perusal of the entire record, it is clear that the name of the present applicants seems to be included out of retribution rather than legitimate grievance. It is well settled position of law that for mere reference the names of family members in a criminal case arising out of a matrimonial dispute, without any specific allegation indicating their active involvement should be nipped in the bud. As per our experience, now a days there is a tendency to implicate all the members of the husband family by making generalized sweeping accusation unsupported by concrete evidence or particular allegations. On the basis of such allegations according to us criminal prosecution cannot be allowed to continue. According to us, continuing the prosecution without any concrete evidence would amount to abuse of process of law and hence we are of the confirmed opinion to invoke inherent powers in such matter.

11. Accordingly, we proceed to pass the following order :

i. Criminal application is allowed;

ii. Regular Criminal Case No. 208 of 2023 pending before the Judicial Magistrate First Class, Kerapur, District Yavatmal arising out of First Information Report vide Crime No. 1062 of 2023 dated 8th September, 2023, for the offence punishable under Sections 498-A, 323 read with Section 34 of Indian Penal Code is hereby quashed and set aside against the applicant no.1- **Ashok S/o Narayan Sapate** and applicant no.2- **Jayashree W/o Ashok Sapate**.

Rule is made absolute in aforesaid terms. No order as to costs.

[PRAVIN S. PATIL, J.]

[ANIL S. KILOR, J.]