



(1)

46 apl 573-2024

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

**CRIMINAL APPLICATION (APL) NO.573 OF 2024**

Mohammad Azharuddin S/o Firozuddin Khatib and others  
Vs.

The State of Maharashtra through P.S.O.Vasant Nagar, Pusad, Dist. Yavatmal and  
another

-----  
Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders  
-----

Court's or Judge's orders

-----  
Shri A.Z. Mirza, Advocate for applicants  
Shri A.J. Gohokar, APP for non-applicant/State  
Ms Isha Thakare, Advocate h/f Ms Shaad Mirza, Advocate for non-applicant No.2  
-----

**CORAM : URMILA JOSHI-PHALKE AND**  
**NANDESH S. DESHPANDE, JJ.**  
**DATED : 24.11.2025**

The present application is filed by the applicants for quashing of the First Information Report in connection with Crime No. 0242/2023, registered under Section 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code and the consequent proceeding arising out of the same RC.C. No. 384/2023.

2. The applicant No.1 is the husband and applicant Nos. 2 and 3 are in-laws. Applicant No.4 is brother-in-law and applicant No. 5 is sister-in-law. The crime is registered on the basis of a report lodged by the informant on an

allegation that her marriage with the applicant No.1 was performed in the year 2018. After marriage she resumed cohabitation at the house of the present applicants. She alleged that initially for some days she was treated well but within one year of marriage she was ill-treated by the applicants by demanding Rs.1,00,000/- from her parents. She further alleged that she has disclosed the said incidence to her sister-in-law i.e. applicant No.5, but instead of giving understanding to other applicants, she abused her. She further stated that in the meantime, she has begotten a daughter from the said wedlock but the present applicants have not treated her well and she was constrained to leave matrimonial house. She demanded money from her husband for the well being of her child also but that was also not provided. On the basis of the said report, police have registered the crime against the present applicants.

3. Heard learned Counsel for the applicants, who submitted that except for general, vague and omnibus allegations, no specific instances are narrated by the non-applicant No.2. Merely because there was a dispute between the husband and the wife, she left the matrimonial house and staying with her parents house and subsequently this First Information Report came to be lodged. He submitted that in view of the ingredients which are required for attracting offence punishable under Section 498-A, none of the statements disclose that the ill-treatment was of such a nature to push the informant for committing suicide or the

cruelty was of such a nature that there was a willful act on the part of the present applicants to cause grave injury or danger to her life, limb or health. Thus, the *prima facie* case is not made out against the present applicants. In view of that the application deserves to be allowed.

4. Per contra, learned Counsel for the complainant and learned Additional Public Prosecutor strongly opposed for the same, and invited our attention towards the recitals of the First Information Report and various statements of the witnesses and submitted that there are specific allegations levelled against the present applicants, which show that she was ill-treated in such a manner that there was no alternative before her but to leave the matrimonial house and now she is living at the shelter of her parents. The applicant No.1 was also not providing any monetary relief to her for maintaining her child which is a cruelty for the non-applicant No.2. For all above reasons, the application deserves to be rejected.

5. After hearing both the sides and on perusal of entire investigation papers, it reveals that as per the allegations, the applicants have ill-treated her by demanding Rs.1,00,000/- Admittedly, no specific instances are narrated by the informant as far as demand of Rs.1,00,000/- is concerned at the hands of the present applicants. She has specifically alleged that the applicant No.5 has abused her but that is also a general allegation as no specific instance is

narrated by her. It is pertinent to note that during that period she has begotten a child as she was cohabiting with the present applicants, though she stated that she was ill-treated physically as well as mentally, and therefore, she was constrained to leave the matrimonial house. As far as the applicant No.1 is concerned, admittedly, she has narrated the specific instances of dated 03.01.2022 and earlier incident also. Thus, considering the specific instances narrated by the non-applicant against the applicant No.1, admittedly, *prima facie* case is made out against the husband, but as far as applicant Nos. 2 to 5 are concerned, the general and omnibus allegations are levelled against them.

6. An offence is punishable under Section 498-A of the IPC when a husband or his relatives subjects a woman to cruelty which may result in imprisonment for a term exceeding up to 3 years and a fine. The explanation under Section 498A of the IPC defines cruelty for the purposes of 498A of the IPC to mean any of the acts mentioned in clause (a) or (b). The first limb of clause (a) of the explanation of Section 498A of the IPC states that clause (a) of the explanation states that cruelty means any wilful conduct that is of such a nature as is likely to drive the woman to commit suicide. The second limb of clause (a) to explanation of 498A of IPC states that cruelty means any wilful conduct that is of such a nature as is likely or to cause grave injury or danger to life, limb or health. Further clause

(b) of explanation to Section 498A of the IPC states that cruelty would also include harassment of the woman where such harassment is to coerce 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 to meet such demand.

7. In light of above ingredients, if the present case are taken into consideration, admittedly, nothing is on record to show that that ill treatment was of such a nature to drive her to commit suicide or there was any wilful conduce of the applicant Nos. 2 to 5 which resulted in leaving of the matrimonial house.

8. Thus, considering the circumstances and the allegations against the applicant Nos. 2 to 5 which are general and omnibus in nature, it is apparent that they are implicated in the alleged offence merely because they are the relatives of the husband. In view of that, the application deserves to be allowed partly. Accordingly, we proceed to pass following order.

### **ORDER**

- i) The application is partly allowed.
- ii) The First Information Report in connection with Crime No. 0242/2023, registered under Section 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code and

the consequent proceeding arising out of the same RC.C. No. 384/2023, is hereby quashed and set aside to the extent of applicant Nos. 2 -Nasim Bano W/o Firozuddin Khatib, 3 – Firozuddin S/o Sirajoddin Khatib, 4 – Mohammad Imranudding S/o Firozuddin Khatib and 5 – Sameena Parveen W/o Ajaz Ahemad Khan Pathan.

iii) The prayer of the applicant No.1, is hereby rejected.

9. Application is disposed of in the above terms.

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

*Jayashree..*