



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

CRIMINAL APPLICATION (APL) NO.730 OF 2023

1. Archana Vinod Thakare,
Age- 45 years, Occu – Housewife
R/o Shivneri Society, Arni Road,
Yavatmal, Tq., Dist.- Yavatmal.
2. Sunil Bhaskar Khaire,
Age- 51 years, Occu- Private Job
R/o Govind Nagar, Pusad
Tq- Pusad, Dist- Yavatmal.
3. Swapnil Bhaskar Khaire
Age- 35 years, Occu- Private Job
R/o Govind Nagar, Pusad,
Tq. Pusad, Dist- Yavatmal.
4. Jayant Devidas Dolharkar,
Age- 55 years, Occu – Business,
R/o Godwe Layout, Arni,
Tq- Arni, Dist. Yavatmal.
5. Shubham Jayant Dolharkar,
Age- 23 years, Occu – Education,
R/o Green Park, Arni,
Tq- Arni, Dist- Yavatmal.
6. Sau. Deepika Jayant Dolharkar,
Age- 45 years, Occu – Housewife,
R/o Green Park, Arni,
Tq- Arni, Dist- Yavatmal. **APPLICANTS**

...V E R S U S...

1. State of Maharashtra, Through
Police Station Officer, Arni,
Tq- Arni, District – Yavatmal.

2. Sau. Smita Sunil Dolharkar,
Aged about 48 yrs, Occup. Household work,
R/o. Dream Land City, Arni,
Tq. Arni, Distt. Yavatmal. **NON-APPLICANTS**

Mr. Y. K. Dhande, Advocate for Applicants.
Mrs. Shamsi Z. Haider, APP for Non-Applicant No.1/State.
None for Non-Applicant No.2.

CORAM: **ANIL S. KILOR AND PRAVIN S. PATIL, JJ.**
DATE: **6th MAY, 2025.**

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

1. 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, applicants who are relatives/in-laws of non-applicant no.2 seeks quashment of criminal proceeding registered against them as Regular Criminal Case No.53/2023 before Judicial Magistrate First Class, Arni, District Yavatmal for offences punishable under Sections 498-A, 504 and 506 read with Section 34 of Indian Penal Code on the police complaint of non-applicant no.2.

3. It is the submission of applicants, that they being

relatives of husband of non-applicant no.2, are roped in the alleged offence in absence of any material against them. According to applicants, no offence is made out against them on the basis of allegation made by non-applicant no.2. Hence, they prayed to quash and set aside the criminal proceeding pending against them.

4. Learned Additional Public Prosecutor for State strongly opposed the application. According to him, there are serious allegation against applicants and on that basis charge-sheet is filed in the matter. Therefore, present application being devoid of merits is liable to be rejected.

5. None appeared for non-applicant no.2 though served as per office note.

6. After perusal of record, it is clear that non-applicant no.2 after 34 years of her marriage lodged police complaint and urged that due to instigation of present applicant, her husband is causing harassment to her. This allegation *prima facie* seems to be improbable because in support of her submission she failed to provide any details such as dates, time, place and nature of harassment caused to her in the complaint. Hence as per settled

position of law, on such vague and baseless allegation, no offence can be registered against applicants.

7. In this case, applicant no.1 according to non-applicant no.2 is second wife of husband and applicant no.2 is the brother of applicant no.1. Applicant nos.3 and 4 are brother-in-law and applicant nos.5 and 6 are sister-in-law and her husband. All these applicants are residing at separate places. Non-applicant no.2 alleged that on 10.04.2022 they all entered in her house without disclosing any reason and abused her. It is impossible to rely on such vague allegation, because all applicants are residing at different places and after 34 years of marriage it is difficult to accept allegations of assault to non-applicant no.2 that too without any reason. Hence, prosecution cannot be permitted to continue on such vague allegations against applicants.

8. In the present case, as the offence is registered under Section 498-A it will be just and proper to consider the law laid down by Hon'ble Supreme Court of India in the case of ***Dara Lakshmi Narayana & Others v. State of Telangana & another [2024 SCC OnLine SC 3682]***. The Hon'ble Supreme Court specifically

observed in this matter as under:

15. An offence is punishable under Section 498A of the IPC when a husband or his relative subjects a woman to cruelty, which may result in imprisonment for a term extending up to three years and a fine. The Explanation under Section 498A of the IPC defines “cruelty” for the purpose of Section 498A of the IPC to mean any of the acts mentioned in clauses (a) or (b). The first limb of clause (a) of the Explanation of Section 498A of the IPC, 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) of the Explanation of Section 498A of the IPC, states that cruelty means any wilful conduct that is of such a nature as to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman. Further, clause (b) of the Explanation of 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.

25. A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognised fact, borne out of judicial experience, that there is often a tendency to implicate all the members of the husband’s family when domestic disputes arise out of a matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessary harassment of innocent family

members. Hence, they cannot be dragged into criminal prosecution and the same would be an abuse of the process of the law in the absence of specific allegations made against each of them.

28. The inclusion of Section 498A of the IPC by way of an amendment was intended to curb cruelty inflicted on a woman by her husband and his family, ensuring swift intervention by the State. However, in recent years, as there have been a notable rise in matrimonial disputes across the country, accompanied by growing discord and tension within the institution of marriage, consequently, there has been a growing tendency to misuse provisions like Section 498A of the IPC as a tool for unleashing 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 a wife and/or her family. 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. Consequently, this Court has, time and again, cautioned against prosecuting the husband and his family in the absence of a clear prima facie case against them.

9. In view of above, we are of the considered opinion that the allegations made by non-applicant no.2 in her police complaint are nothing but motivated by a desire for retribution rather than a legitimate grievance. The names of family members are included out of ulterior motive without any concrete proof or documentary evidence on record.

10. In view of aforesaid reasons, we proceed to pass the following order:

ORDER

i. Criminal application is allowed.

ii. The criminal proceeding bearing Regular Criminal Case No.53/2023 pending before the learned Judicial Magistrate First Class, Arni, Tahsil Arni, District Yavatmal arising out of Crime No.995/2022 registered with Police Station Arni, Tahsil Arni, District Yavatmal for the offences punishable under Sections 498-A, 504 and 506 read with Section 34 of Indian Penal Code is hereby quashed and set aside against the applicants.

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

(PRAVIN S. PATIL, J.)

(ANIL S. KILOR, J.)