



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

CRIMINAL APPLICATION (APL) NO. 415 OF 2025

[Kajal Sagar Bansod **vs.** The State of Maharashtra, through
P.S.O., Paratwada, Tq. Paratwada, Dist. Amravati and anr.]

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

Court's or Judge's orders

Mr. A. S. Deshpande, Advocate for the applicant
Ms. S. N. Thakur, APP for the State/non-applicant no. 1
Mr. V. A. Anand, Advocate for non-applicant no. 2

CORAM: ANIL L. PANSARE AND
M. M. NERLIKAR, JJ.

Date of reserving order : **18-08-2025**
Date of pronouncement of order : **22-08-2025**

On 11-8-2025, following order was passed.

“In an application seeking to quash First Information Report (FIR) and charge-sheet, learned counsel for non-applicant no. 2 seeks time to file reply.

The counsel for non-applicant no. 2 shall justify filing reply in such proceeding where the law is well settled that the contents of FIR and charge-sheet are to be looked into and if offence is made out, the question of quashing the FIR/charge-sheet does not arise. At the same time, if the contents of FIR and charge-sheet are accepted on face value and if the offence is not made out, the FIR/charge-sheet ought to be quashed.

We have gone through the FIR and the charge-sheet. According to non-applicant no. 2, her husband is in relationship with the applicant and, therefore, was harassing her and in doing so, the in-laws have supported the husband. With such allegations, the Investigating Officer has lodged FIR against the husband and in-laws of non-applicant no. 2 as also against the applicant, who is said to be a lady in relationship with non-applicant no. 2's husband.

When enquired about the best evidence against the applicant, learned Additional Public Prosecutor submits that excepts for the chats exchanged between the

applicant and husband of non-applicant no. 2 which indicate that they were in relationship, there is no other evidence. The question, therefore, is whether the ingredients of Section 498-A of Indian Penal Code, 1860 (for short 'IPC') are attracted.

Section 498-A of the IPC reads as under :-

“498-A. 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 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 to meet such demand.]”

Thus, to attract Section 498-A of the IPC, there has to be allegations against husband or relatives of the husband of subjecting the wife/woman to cruelty. The first explanation defines ‘cruelty’ to mean 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.

The allegation here, according to non-applicant no. 2, is that the applicant has exchanged messages which can be said to be a message instigating non-applicant no. 2’s husband to subject non-applicant no. 2 to cruelty.

Learned counsel for non-applicant no. 2 has invited our attention to the messages exchanged by the applicant and non-applicant no. 2’s husband. The messages indicate that the applicant had asked non-applicant no. 2’s husband to leave non-applicant no. 2, to

which non-applicant no. 2's husband asked her whether she will reside with him. The applicant said 'no'.

At this stage, learned Additional Public Prosecutor submits that the applicant is also married and that may be the reason, why did she refuse to reside with non-applicant no. 2's husband. As against, learned counsel for non-applicant no. 2 submits that applicant's husband has expired.

May be that the applicant's husband expired but the fact is that she was not willing to reside with non-applicant no. 2's husband. The moot question, however, is whether such a fact can be said to be cruelty to the non-applicant no. 2 that too at the hands of applicant. The answer would be certainly in the negative.

The cruelty should be such that would show that a person is by wilful conduct is creating a circumstance that would drive the woman to commit suicide or to cause grave injury or danger to life, limb or health. The contents of FIR or charge-sheet does not suggest that the conduct of the applicant had a potential to drive non-applicant no. 2 to commit suicide nor is there such allegation at the hands of non-applicant no. 2.

The second explanation would require harassment with a view to coerce the woman to meet any unlawful demand for any property or valuable security or the harassment is on account of failure of the woman to make such demand.

It is nobody's case that the applicant has ever harassed non-applicant no. 2 for any unlawful demand for any property or valuable security. That being so, prima facie we are of the view that no case is made out against the applicant for the offence punishable under Section 498-A of the IPC.

Nonetheless, learned counsel for non-applicant no. 2 seeks time to file reply which shall be filed justifying the same.

In the meantime, there shall be stay to the FIR being Crime No. 0663/2024 and charge-sheet No. 180/2024 pending before Judicial Magistrate First Class, Court No. 1, Achalpur.

Stand over to 18-8-2025.

The applicant shall correct pagination of second set.”

2. Thus, we were of the view that no case is made out against the applicant for the offence punishable under Section 498-A of the IPC. It was only because the counsel of non-applicant no. 2 insisted to file reply, we had granted time to him to justify filing reply. Thus, what was expected from the non-applicant no. 2 is the reason why should we permit her to file reply in a proceedings seeking to quash the FIR and charge-sheet.

3. The counsel for non-applicant no. 2 submits that reply is ready and will be filed during the course of the day. Since we expected reasons to file reply, we thought it proper to hear the parties to ascertain whether filing reply will have any bearing on the outcome of the proceedings.

4. As such, the law is well settled which we have mentioned in the order dated 11-8-2025 viz. in an application seeking to quash the FIR/charge-sheet, what is relevant is to accept the case put forth by the prosecution and to find out whether the offence is made out against the accused. Thus, what is relevant is the contents of FIR/charge-sheet. It is, in this context, the non-applicant no. 2 was called upon to justify filing reply and to show that it is permissible to consider additional material, which is not part of the FIR/charge-sheet.

5. In this regard, we may refer to the judgment of the Supreme Court in the case of ***Municipal Corporation of Delhi Vs. Ram Kishan Rohtagi and ors. [(1983) 1 SCC 1]*** wherein while dealing with the scope of Section 482 of the Code of Criminal Procedure, 1973 (for short ‘Cr.P.C.’), the Hon’ble

Supreme Court observed thus :

“9. Same view was taken in a later decision of this Court in *Sharda Prasad Sinha vs. State of Bihar* where Bhagwati, J. speaking for the Court observed as follows: [SCC para 2, p. 506 : SCC (Cri) p. 133]

"It is now settled law that where the allegations set out in the complaint or the charge-sheet do not constitute any offence, it is competent to the High Court exercising its inherent jurisdiction under Section 482 of the Code of Criminal Procedure to quash the order passed by the Magistrate taking cognizance of the offence."

10. *It is, therefore, manifestly clear that proceedings against an accused in the initial stages can be quashed only if on the face of the complaint or the papers accompanying the same, no offence is constituted. In other words, the test is that taking the allegations and the complaint as they are, without adding or subtracting anything, if no offence is made out then the High Court will be justified in quashing the proceedings in exercise of its powers under Section 482 of the present Code."* (emphasis now)

As could be seen, the Hon'ble Supreme Court held that the proceedings against the accused can be quashed, if on the face of the complaint or the papers accompanying the same, no offence is constituted. The Court then observed that the test is that taking the allegations and the complaint as they are, without adding or subtracting anything, if no offence is made out, then the High Court will be justified in quashing the proceedings. Thus, the Court has to take the allegations in the complaint as they are and without adding or subtracting anything, Court has to ascertain whether the offence is made out or not. In other words, neither can anything be added nor can anything be subtracted from the FIR/charge-sheet to ascertain whether the offence is constituted. In the circumstances, unless the persons like non-applicant no. 2 makes out a case, assigning reasons as to why filing reply is necessary, the request to file reply cannot be acceded to.

6. In *M. Srikanth Vs. State of Telangana and anr. [(2019) 10 SCC 373]*, the Hon'ble Supreme Court, while dealing with the powers to quash the proceedings under Section 482 of the Cr.P.C., referred to the landmark judgment in the case of *State of Haryana Vs. Bhajan Lal [1992 Supp(1) SCC 335]* and observed thus :-

“17. It could thus be seen, that this Court has held, that where the allegations made in the FIR or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute a case against the accused, the High Court would be justified in quashing the proceedings. Further, it has been held that where the uncontroverted allegations in the FIR and the evidence collected in support of the same do not disclose any offence and make out a case against the accused, the Court would be justified in quashing the proceedings.”

Thus, the Supreme Court has reiterated that where the allegations made in the FIR or the complaint, even if, they are taken at their face value and accepted in their entirety, if the offence is not made out, the High Court will be justified in quashing the proceedings. The Court further held that where the uncontroverted allegations in the FIR and the evidence collected in support of the same does not disclose any offence and make out a case against the accused, the Court would be justified in quashing the proceedings.

7. Accordingly, we have heard the parties to find that nothing more is to be added than what has been noted in order dated 11-8-2025 that the contents of the FIR/Charge-sheet, if taken on face value, does not constitute offence.

8. As such, the counsel for non-applicant no. 2 submits that in order dated 11-8-2025, the Court has focused only on explanation (b) of Section 498-A of the IPC, we, therefore,

called upon him to read the entire order to point out that there is not only reference to the first explanation that defines cruelty but a categorical finding noted that the contents of FIR or charge-sheet in the present case do not suggest that the conduct of the applicant had a potential to drive non-applicant no. 2 to commit suicide nor is there such allegation at the hands of non-applicant no. 2. Thereafter was discussed the second explanation to find that case is not made out under the said explanation as well.

9. With regard to the allegations under Sections 504 and 506 of the IPC, we have not come across any material evidence nor have the non-applicants pointed out any specific allegations or grounds of complaint against the applicant in this regard. It is pertinent to note that the applicant is a distant relative of the husband of non-applicant no. 2 and has not resided with the said couple or their immediate family members. Consequently, there was no occasion or opportunity for the applicant to have engaged in any conduct constituting harassment or intent to cause harm to non-applicant no. 2.

10. The counsel representing non-applicant no. 2 failed to demonstrate that any additional material, whether in the form of a reply or otherwise, would necessitate a different conclusion by this Court. However, he posed a question, namely, whether the harassment allegedly inflicted by non-applicant no. 2's husband on her, due to his relationship with the applicant, would not constitute harassment by the applicant. In our considered view, such an argument merely underscores the irritation or distress experienced by non-applicant no. 2, which, given the peculiar facts of the case, may be deemed justifiable in light of her emotional state regarding her husband's relationship with the applicant. Nonetheless, this

line of reasoning does not establish the requisite elements of cruelty under Section 498-A of the IPC.

11. Thus, the contents of FIR and charge-sheet, even if, accepted at its face value, do not constitute offence under Section 498-A of the IPC. This is, therefore, a fit case where powers under Section 482 of the Cr.P.C. should be invoked. Accordingly, we allow the application in terms of prayer clause (b) which reads as under :-

“b. be pleased to quash and set aside F.I.R. dated 09.10.2024 (ANNEXURE-A) and Criminal proceedings vide Crime No. 0663/2024 and chage-sheet No. 180/2024 dated 17/12/2024 (ANNEXURE-B), which came to be registered against the applicant by respondent No.1- i.e. Police Station Officer, Police Station Partwada, District Amravati for the offences punishable u/s 498-A, 504, 506 R/w 34 of Indian Penal Code, being arbitrary, illegal and capricious;”

12. Needless to say that proceedings are quashed qua the applicant.

(M. M. NERLIKAR, J.)

(ANIL L. PANSARE, J.)