



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

CRIMINAL APPLICATION [APL] NO.750 OF 2024

[Shashank Ashok Madan and others .vs. State of Maharashtra and one]

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

Court's or Judge's orders

Ms. Rudra Mulaokar, Advocate h/f Shri Omkar Deshpande, Advocate for Applicants.
Ms. Shamsi Haider, APP for Non-Applicant No.1/State.
Shri P.P. Kotwal, Advocate for Non-Applicant No.2.

.....

CORAM : ANIL S. KILOR AND
PRAVIN S. PATIL, JJ.

DATE : MAY 06, 2025.

P.C.

1. At the outset, the learned counsel for the applicants, on instructions, submits that he does not want to press the application qua the applicant no.1.

2. The present application came to be filed under Section 482 of the Code of Criminal Procedure for quashing of Chargesheet No.514/2023 dated 11.12.2023 in First Information Report No.1057/2023 dated 23.09.2023 registered with Police Station Ramnagar, District-Chandrapur for the offence punishable under Section 498-A r/w 34 of the Indian Penal Code.

3. Having gone through the chargesheet and the material collected during investigation, it is evident that the allegations against the applicants are of torture meted out to her and harassment.

4. The marriage of the non-applicant no.2 was solemnized on 04.07.2021 and she left the company of the applicants on 29.10.2022 which shows that she was with the applicants for about 15 months. In the complaint certain instances are mentioned of 01.10.2021, 12.05.2022, 13.07.2022 and 28.10.2022. These instances are of alleged torture and harassment. It is further alleged that within 10 days of her marriage, the applicants started ill-treating her.

5. Admittedly, the non-applicant no.2 left the company of the applicants on 29.10.2022 and, thereafter, a legal notice was issued on 15.05.2023. The same was replied by the husband of the non-applicant no.2 on 20.05.2023.

6. Though the non-applicant no.2 left the company because of alleged harassment and ill-treatment on 29.10.2022, a complaint was made to Bharosa Cell in the month of August-2023 and the First Information Report came to be lodged on 29.03.2023 i.e. almost after 11 months.

7. In Column No.8, the reason for delay as stated by the non-applicant no.2, is that after receiving the report from Bharosa Cell, the complaint came to be lodged. However, as observed hereinabove, the non-applicant no.2 approached to Bharosa Cell in the month of August-2023 i.e. after 10 months of the date when she left the company of the applicants.

8. In the complaint, while giving explanation for such delay, she speaks about her mental condition and states that she

was under depression. However, in the legal notice, which was issued much prior to the police complaint i.e. 15.05.2023, there is no whisper about depression. The legal notice, which is containing 64 paras and is of more than 20 pages, speaks for itself that the non-applicant no.2 was not under mental depression. It is particularly when minor details are mentioned in the notice which was drafted by an Advocate on the instructions given by the non-applicant no.2.

9. This fact further shows that the non-applicant no.2 engaged a Lawyer in the month of May-2023 itself and, therefore, the allegation and specific allegation with dates and other details alleging ill-treatment and harassment at the hands of the applicants stated in the complaint creates doubt about the veracity of the same.

10. Hon'ble Supreme Court of India in the case of ***Dara Lakshmi Narayana and others .vs. State of Telangana***, reported in ***2024 SCC Online SC 3682***, while considering somewhat identical issue observed thus :

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.

30. In the above context, this Court in [G.V. Rao vs. L.H.V. Prasad](#), (2000) 3 SCC 693 observed as follows:

“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 lose their “young” days in chasing their “cases” in different courts.”

31. Further, this Court in [Preeti Gupta vs. State of Jharkhand](#) (2010) 7 SCC 667 held that the courts have to be extremely careful and cautious in dealing with these complaints and must take

pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment by the husband's close relatives who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinized with great care and circumspection.

11. The Hon'ble Supreme Court of India in the case of ***Achin Gupta .vs. State of Haryana and another, reported in 2024 OnLine SC 759***, while considering somewhat identical issue observed thus :

Once the investigation is over and charge-sheet is filed, the FIR pales into insignificance. The court, thereafter, owes a duty to look after all the materials collected by the investigating agency in the form of charge-sheet. There is nothing in the words of Section 482 CrPC which restricts the exercise of the power of the court to prevent the abuse of process of court or miscarriage of justice only to the stage of the FIR. It would be a travesty of justice to hold that the proceedings initiated against a person can be interfered with at the stage of FIR but not if it has materialised into a charge-sheet.

If a person is made to face a criminal trial on some general and sweeping allegations without bringing on record any specific instances of criminal conduct, it is nothing but abuse of the process of the court. The court owes a duty to subject the allegations levelled in the complaint to a thorough scrutiny to find out, prima facie, whether there is any grain of truth in the allegations or whether they are made only with the sole object of involving certain individuals in a criminal charge, more particularly when a prosecution arises from a matrimonial dispute.

It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the courts in our country including this court are flooded with matrimonial cases.

This clearly demonstrates discontent and unrest in the family life of a large number of people of the society.

12. In light of above referred observations and the findings recorded hereinabove, the court owes a duty to subject the allegations to a thorough scrutiny to find out prima facie, whether there is any grain of truth in the allegations. While doing so, we reveal the following important aspects :

- (i) As observed there is no mention about a depression after leaving the house of the applicants on 29.10.2022 with her legal notice dated 15.05.2023.*
- (ii) No documents were submitted with the police during the investigation about her treatment relating to such depression.*
- (iii) The allegations of impotency are being made against the husband, however, there is no medical examination was conducted by the Police to find out the substance in such allegation.*

13. The above referred factors creates doubt about the allegations made against the applicants in the FIR. In the circumstances, though the learned counsel for the non-applicant no.2 and the learned APP strongly opposed the application and submit that the allegations made in the report are sufficient to show that prima facie offence constitutes against the applicants, we do not find substance in the said argument.

14. The learned counsel for the non-applicant no.2 submits that the delay part is to be explained at the time of trial. This

argument cannot be accepted for the reason that nothing is brought on record to explain the delay.

15. In the circumstances, the applicants cannot be forced to face the trial, particularly when we have reached to the conclusion that the complaint in the present matter came to be filed against the applicants out of tendency to rope the family members of the husband in vexatious proceeding to harass them or to pressurize them. Such tactics amounts to arm twisting which cannot be permitted.

16. In the circumstances, the application is allowed qua applicant nos.2 Vimladevi Ashok Madan, applicant no.3 Sharyu Mohit Batra and applicant no.4 Mohit Kishor Batra.

17. The Chargesheet No.514/2023 dated 11.12.2023 arising out of First Information Report No.1057/2023 dated 23.09.2023 registered with Police Station Ramnagar, District-Chandrapur for the offence punishable under Section 498-A r/w 34 of the Indian Penal Code against the applicant nos.2, 3 and 4, is hereby quashed and set aside.

18. Application qua applicant no.5 Kishor Batra is disposed of as he expired during the pendency of the present application.

19. Application qua applicant no.1 Shashank Ashok Madan is dismissed, as not pressed.

(PRAVIN S. PATIL, J.)

(ANIL S. KILOR, J.)