



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

CRIMINAL APPLICATION (APL) NO. 867 OF 2024

1. **Makarand S/o Narendranath Gavai,**
Aged about 39 years, (HUSBAND)
Occupation - Commander in Air
India Express, R/o Flat No. 604, C-Wing, Imperial
Heights, Near BEST Colony,
Goregaon West, Mumbai-400104.
Mobile No. 9823666366
E-mail: mngavai@gmail.com.
2. **Dr. Mrs. Meena W/o Narendranath
Gavai,** Aged about 65 years, (Mother in Law)
Occupation Retired from Nagpur Municipal Corporation, Nagpur, R/o Flat
No. 604, C-Wing, Imperial Heights, Near BEST Colony,
Goregaon West, Mumbai-400104
3. **Dr. Narendranath Gavai, (Father in Law)**
Aged about 69 yrs, Occ. Retired
from Nagpur Municipal Corporation, Nagpur,
R/o Flat No. 604, C-Wing, Imperial Heights,
Near BEST Colony, Goregaon
West, Mumbai-400104.
Mobile No. 9823646560

.... **APPLICANTS.**

// **VERSUS** //

1. **State of Maharashtra,**
Through P.S.O., P.S. Jaripatka,
Nagpur City, Nagpur.
2. **Mrs. Leena w/o Makarand Gavai,**
Aged about 39 years,
Occupation - Solution Architect in Mindcurve
Company Limited, R/o. C/o. Ashok Shahdadpuri,
Plot No.30, Mekosabagh, Near Khatiawale
Baba Mandir, Sindhi Colony, Post - Jaripatka, Nagpur.
M. No.9823051991,
Email-id: leenapuri999@gmail.com

.... **NON-APPLICANTS.**

Shri R.P. Joshi, Advocate for Applicants.

Shri A.B. Badar, A.P.P. for Non-applicant No.1/State.

Adv. C.F. Bhagwani, h/f Ms R.M. Damani, Advocate for the respondent No.2

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

DATE OF RESERVING THE JUDGMENT : 25/04/2025

DATE OF PRONOUNCING THE JUDGMENT: 13/08/2025

JUDGMENT : (Per : Anil S. Kilor, J.)

1. Heard.
2. **RULE.** Rule made returnable forthwith. Heard by consent of the learned counsel for the parties.
3. By the present application filed under Section 482 of the Code of Criminal Procedure, a prayer is made to quash and set aside the First Information Report No.323 of 2024, registered with Police Station, Jaripatka, Nagpur City, Nagpur for the offences punishable under Sections 323, 498A, 504, 506 read with Section 34 of the Indian Penal Code.
4. The brief facts of the present case are as under:

The non-applicant No.2 married with the applicant No.1 on 14/12/2015. The applicant No.1 is a Commander with Air India and is presently residing in Mumbai. The applicant Nos.2 and 3 are

the parents of applicant No.1, who retired from services of Nagpur Municipal Corporation (NMC) in the year 2016 and 2014 respectively and are residing at Nagpur, but since last one and half years they are living in Mumbai.

5. On 06.05.2024, the non-applicant No. 2 filed an FIR against all the applicants for the offences punishable under Sections 323, 498A, 504, 506 read with Section 34 of IPC.

6. The facts in brief, are that from 2015 to 2017 the applicant No.1 and Non-applicant No.2 resided at Kochi (Kerala). Thereafter, they came to Mumbai and resided there from 2017 to February-2022. The applicant No.1 thereafter, shifted to Trichi (Tamil Nadu) for one year and thereafter, returned to Mumbai in February-2023.

7. The non-applicant No.2 left Mumbai in August 2022 without informing the applicant No.1 and remained absent for a period of one year and nine months, during which she travelled to countries including Germany, Italy, and the United Kingdom. Upon her return, she lodged the present FIR on 06/05/2024.

8. The FIR alleges that the applicants subjected the non-

applicant No.2 to harassment for dowry. It is further alleged that she was compelled to bear various expenses and meet their demands, and that she was subjected to both mental and physical harassment by them.

9. We have heard the learned counsel for the respective parties.

10. The learned counsel for the applicants contends that there is an inordinate delay in lodging the FIR. It is submitted that the allegations therein pertain to the period between 15.12.2015 and August 2022, whereas the FIR came to be lodged only on 06.05.2024. It is argued that the same has been instituted with an ulterior motive for wreaking vengeance, and therefore, deserves to be quashed. It is further submitted that even if the allegations in the FIR are taken on its face value, no offence as alleged is made out.

11. The learned APP, on the other hand, strongly opposed the application and submitted that the allegations in the FIR prima facie indicate the complicity of the applicants in the alleged offence. It is contended that since a prima facie case is made out, this Court may not interfere.

12. The learned counsel for non-applicant No.2 reiterated the

submissions of the learned APP.

13. In light of the rival submissions, we have perused the record and the allegations made in the FIR.

14. It is evident from the FIR that the non-applicant No.2 is residing with her mother namely Mita Shahadad Puri since August 2022. The date of lodging the FIR is 06.05.2024. Thus, it can be said that the non-applicant No.2 remained silent for almost one year and nine months after she withdrew herself from the company of the applicants.

15. Furthermore, the allegations in the FIR pertain to incidents from 2016 and 2017. The last of which is stated to have occurred in October-2017. Thus, there is a delay of approximately seven years in lodging the complaint regarding these incidents, for which the non-applicant No.2 has not offered explanation.

16. The Hon'ble Supreme Court of India in the case of *Mahmood Ali and Ors. Vs. State of U.P. & Ors.* (Criminal Appeal No.2341 of 2023), decided on 08.08.2023, has held thus:

“10. We are of the view that even if the entire case of the prosecution is believed or accepted to be true, none of the ingredients to constitute the offence as alleged are disclosed. It is pertinent to note that the FIR in question came to be lodged after a period of 14 years

from the alleged illegal acts of the appellants. It is also pertinent to note that in the FIR no specific date or time of the alleged offences has been disclosed.

11. (...)

12. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.”

17. The High Court of Himachal Pradesh at Shimla, in the case of *Gaurav Chaudhary and Anr. Vs. State of H.P. & anr.* (Criminal MMO No.501 of 2021), decided on 08.01.2025, has held thus:

“14. ...

15. *The principles laid down by this Court have consistently been followed, as well as in the recent judgment of three Judge judgment of this Court in Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra and Others.*”

15. *The Hon'ble Supreme Court in a recent decision in Payal Sharma versus State of Punjab & Anr., Citation No. 2024 INSC 896, has held that there is tendency to rope in the entire family in the matrimonial dispute. It has also been held that in case of lack of specific allegations, it is the duty of the Court to consider the contentions, under Section 482 Cr. P.C., whether the allegations, so levelled, against the relatives, make out a prima-facie case, against them, or not. Relevant paragraphs 9 to 12 of the judgment are reproduced, as under:*

9. *In the decision in Preeti Gupta & Anr. v. State of Jharkhand & Anr.1, this Court observed that it is a matter of common knowledge that in matrimonial disputes exaggerated versions of the incident are reflected in a large number of complaints and the tendency of over implication is also reflected in a large number of cases. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of sufferings of ignominy, it was further held therein. We have no hesitation to hold that the said observation of this Court is in fact, sounding of a caution, against non-discharge of the duty to see whether implication of a person who is not a close relative of the family of the husband is over implication or whether allegation against any such person is an exaggerated version, in matrimonial disputes of this nature. In this context, it is to be noted that the term 'relative' has not been defined in the statute and, therefore, it must be assigned a meaning as is commonly understood. Hence, normally, it can be taken to include, father, mother, husband or wife, son, daughter, brother, sister, nephew, niece, grandson or granddaughter of any individual or the spouse of*

any person. To put it shortly, it includes a person related by blood, marriage or adoption. In paragraph 35 of Preeti Gupta's case (*supra*) it was furthermore held thus:-

"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 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 17 2025:HHC:2249 complainant are required to be scrutinized with great care and circumspection."

10. In such circumstances, normally against a person who is not falling under any of the aforesaid categories when allegations are raised, in the light of the observations made in Preeti Gupta's case (*supra*), the Court concerned owes an irrecusable duty to see whether such implication is over implication and/or whether the allegations against such a person is an exaggerated version. We have already taken note of the fact that except the observation made in paragraph 7 there is no consideration at all of the contentions of accused No.5 in the impugned order.

11. In the decision in *Geeta Mehrotra and Anr. v. State of U.P. and Anr.*, this Court held that mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the tendency of over implication viz., to draw the entire members of the household in the domestic quarrel resulting in matrimonial dispute, especially when it happens soon after the wedding. In the decision in *Kahkashan Kausar @ Sonam and Others v. State of Bihar & Ors.*, this Court quashed proceedings in so far as family members of the husband on the ground that the allegations against them are general and ominous in nature. In matters like the one at hand when relatives not residing in the same house where the alleged victim resides, the courts shall not stop consideration by merely looking into the question where the accused is a person falling within the ambit of the expression 'relative' for the purpose of Section 498-A, IPC, but should also consider whether it is a case of over implication or exaggerated version solely to implicate such person(s) to

pressurise the main accused. It is also relevant to refer to the decision of this Court in State of Haryana v. Bhajan Lal, wherein after considering the statutory provisions and the earlier decisions, this Court referred to various categories of cases where the inherent powers under Section 482, Cr. P.C. could be exercised by High Court to prevent abuse of process of Court or otherwise to secure ends of justice. One among such categories is where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent man could ever reach a just conclusion that there is sufficient ground for proceeding against an accused.”

18. From the above referred exposition of law and considering the nature of allegations, which are vague and no sufficient details are given, it is evident that there is every possibility that with an ulterior motive for wrecking vengeance, the present complaint came to be filed against the applicants.

19. In the circumstances, though the learned APP and the learned counsel for the non-applicant No.2 have strongly opposed the application, we are of the opinion that in light of the above referred observations, if the applicants are compelled to face the trial, it would amount to an abuse of process of law. Accordingly, we pass the following order:

- i) The Criminal Application is **allowed**.
- ii) The First Information Report No.323 of 2024, registered with Police Station, Jaripatka, Nagpur City,

Nagpur for the offences punishable under Sections 323, 498A, 504, 506 read with Section 34 of the Indian Penal Code, against the present applicants, is hereby quashed and set aside.

Rule is made absolute accordingly.

(PRAVIN S. PATIL, J)

(ANIL S. KILOR, J)

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