



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

CRIMINAL APPLICATION (APL) NO. 918 OF 2022

Rahul S/O Indrajit Lakade And Ors.

Vs.

State of Maharashtra, Thr. PSO, P.S. Ballarshah, Dist. Chandrapur And Anr.

IN

CRIMINAL APPLICATION (APPP) NO. 1106 OF 2022

Rahul S/O Indrajit Lakade And Ors.

Vs.

State of Maharashtra, Thr. PSO, P.S. Ballarshah, Dist. Chandrapur 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. U. Deshmukh, Advocate for applicant
Mr. N. B. Jawade, APP for non-applicants/State

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

DATED : 18.11.2025

1. Present application is preferred by the applicants for quashing of the First Information Report in connection with Crime No. 596/2022 registered under Section 498A of IPC.

2. Applicant No. 1 is the husband, applicant No. 2 is the mother-in-law, applicant No. 3 is the elder sister, and applicant No. 5 is also the sister. Applicant No. 4 is the brother-in-law and applicant No. 6 is the maternal uncle.

3. Crime is registered on the basis of a report lodged by the informant on an allegation that she got acquaintance with applicant No. 1 on 16.01.2020 from Facebook social account, and they had decided to perform the marriage with each other. Due to the COVID period, they could not meet each other, but they were communicating with each other. There was a love affair between her and applicant No. 1, and out of which there was physical relationship also. It is further alleged that they have performed the marriage on 20.01.2022 at Boudh Vihar, Bodhisatva Bahuddeshiya Sanstha, which was a registered marriage, and after marriage she resumed the cohabitation at the house of the present applicants. But the other members of the family of the applicant No. 1 have not accepted the said relationship, and she was abused and assaulted by them. Therefore, she constrained to live at her parents house. It is further alleged that the applicant no. 1 also joined her company, but the other applicants came at her parents house, assaulted the applicant no. 1, abused her and her family members, and took the applicant No. 1 along with them. On the basis of the said report, police have registered the crime against the present applicants.

4. Heard learned counsel for the applicants, who submitted that the entire allegation is baseless, vague and omnibus. The marriage itself is not performed between applicant No. 1 and the informant. He invited our attention towards the notice reply given by the non-applicant No. 2, wherein she has called upon the applicant no. 1 to perform

the marriage within 15 days. Thus, he submitted that the offence itself is not made out against the present applicants, even accepting the allegation as it is at the prima facie stage. He further submitted that the story narrated by the prosecution witnesses itself is not trustworthy improbable story as no such incident has happened on the next day of the said incident. He submitted that the act of the present applicants nowhere covers under the definition of cruelty, and therefore the application deserves to be allowed and the FIR against the present applicants deserves to be quashed.

5. *Per contra*, learned APP strongly opposed the application and invited our attention towards the various witnesses, including the independent witnesses, that is Ankesh Shivilal Shrivastava, Sameer Daud Shaikh, and Anil Buddhram Shende, who have stated the specific instance of dated 21.01.2022, that is on the next date of the marriage, disclosing the assault at the hands of the other applicants to the applicant No. 1. As far as the marriage is concerned, marriage certificate is on record. There is a statement of the witness also to show that the marriage was performed between the applicant No. 1 and non-applicant No. 2. Thus, he submitted that there is sufficient material at this stage to try the offences against the present applicants, and therefore the application deserves to be rejected.

6. On hearing both the sides and on perusal of the investigation papers, it reveals that out of love affair the

physical relationship was developed between the applicant and non-applicant No. 2, and they have performed the marriage. As far as the performance of marriage is concerned, the Investigating Officer has recorded the statements of the relevant witnesses, which show that the marriage was performed in a Boudh Vihar. The statement of the person who performed the said marriage is also recorded by the Investigating Officer. The statements of the independent witnesses are also recorded, which also show the involvement of the present applicants in the alleged offence.

7. Section 498A of the Indian Penal Code prescribes punishment where a woman is subjected to cruelty by her husband or his relatives. The offence is punishable with imprisonment for a term which may extend to three years and also provides for fine. The explanation appended to the provision defines cruelty in two parts:

- (a) refers to willful conduct which is of such nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to her life or limb or health, whether mental or physical;
- (b) expands the scope of the term to include harassment with a view to coercing the woman or her relatives to meet any unlawful demand for property or valuable security, or on account of failure to meet such demand.

8. The concept of cruelty is also defined in catena of decisions. The word “cruelty”, having been defined in terms of the aforesaid explanation, no other meaning can be attributed thereto. Living with a wife and treating her with cruelty on the part of the husband or on the part of the relatives is an offence under Section 498A of IPC.

9. Here in the present case, the marriage is not accepted by the other family members, and on that count she was not allowed to enter into the house and cohabit with the applicant No. 1. Section 498A of the Indian Penal Code relates to the cruelty by the husband or his relatives including other family members. We are aware about the recent judgments wherein it is observed that the family members should not be implicated unnecessarily on a vague and omnibus allegations. But as far as the present matter is concerned, admittedly, there is material to frame the charge against the present applicants. As far as the allegations are concerned, which show that not only the non-applicant no. 2 refused to accept in the family, but when the applicant no. 1 has joined her company, he was not permitted to join the company of non-applicant No. 2, and by visiting the house of non-applicant No. 2, the applicant no. 1 and non-applicant no. 2 are assaulted, abused by the other applicants. Thus, these allegations, which are substantiated by the independent witnesses, sufficiently shows the involvement of the present applicants in the alleged offence. In view of the observation of the Hon’ble Apex Court in the

case of **State of Haryana & Others vs. Ch. Bhajan Lal & Others** reported in 1992 Supp. (1) SCC 335, which is reproduced below :-

“(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

10. A prima facie case is made out against the present applicants, and therefore the application deserves to be rejected. Accordingly, we proceed to pass the following order:–

ORDER

(i) Application is hereby rejected.

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