



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

CRIMINAL APPLICATION (APL) NO.1134 OF 2022

[Shukramanprasad Ramlakhan Swarnkar and Others ..Vs.. State of
Maharashtra and Another]

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

Court's or Judge's order

Mr A. R. Fule Advocate for Applicants.
Mr M. J. Khan, Addl. P. P. for Non-Applicant/State.

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

DATE : **7th NOVEMBER, 2025.**

. Heard.

2. By this application, the applicants have prayed for quashing of the First Information Report in connection with Crime No.376 of 2022 registered under Sections 498-A, 323, 504 and 506 read with Section 34 of the Indian Penal Code, 1860, and the consequent proceedings arising out of the same bearing R.C.C. No.2263 of 2023 pending before the 11th Judicial Magistrate First Class, Nagpur.

3. The applicants i.e. applicant No.1 is the brother-in-law, applicant No.2 is the wife of applicant No.1, applicant Nos.3 and 4 are the father-in-law and mother-in-law respectively, applicant No.5 is the brother-in-law (husband of sister of applicant No.1) and applicant No.6 is the sister-in-law.

4. As per the allegations levelled in the First Information Report lodged by the informant that her marriage was performed with co-accused Mahendra on 24.06.2012 and out of the said wedlock, she has blessed with two sons. She alleged that within eight days of

the marriage, she was subjected for ill-treatment and cruelty and there was consistent demand money. Accordingly, her father has fulfilled the demand of Rs.50,000/- and thereafter Rs.20,000/-, but there was no change in their behavior. Due to the continuous ill-treatment and harassment at the hands of the present applicants, she constrained to leave the matrimonial house and now she has taken shelter at her parents house. On the basis of the said report, the police have registered the offence against the present applicants.

5. Heard learned counsel for the applicants who submitted that as far as the present applicants are concerned, who are the relatives of husband, against whom general and omnibus allegations are levelled. No specific instances have narrated against them. To attract the offence punishable under Section 498-A of the I.P.C., the cruelty has to be of a such nature which would show that there was an intention to cause grave injury or drive the victim to commit suicide and inflict grave injury to herself. These, ingredients are absent, therefore, offence under Section 498-A of the I.P.C. is not made out.

6. Learned Additional Public Prosecutor strongly opposed the said contention and submitted that the statement of the victim sufficiently shows the act of the present applicants which attract the offence under Section 498-A of the I.P.C. He further submitted that the father of the informant was forced to take gold loan to fulfill the demand and therefore, the offence is made out. Hence, the application deserves to be rejected.

7. After hearing both the sides and on perusal of the recitals of the First Information Report and investigation papers, there is no

dispute as far as the relationship is concerned. On perusal of the statement of the informant, it reveals that she had made allegations that there was an ill-treatment at the hands of the present applicants immediately within eight days of her marriage with Mahendra. However, no specific instances are narrated by her as far as the ill-treatment at the hands of the present applicants are concerned. Admittedly, the applicant Nos.2 and 6 are concerned, they are already married and staying at their matrimonial house. The cruelty caused has to be of a such nature that it should inflict with the intention to cause grave injury or drive the victim to commit suicide or inflict grave injury to herself. Such allegations are absent in the present case.

8. Admittedly, entire allegations made as far as the present applicants are concerned are of general nature as well as without any particulars. There are other omnibus statements made in the complaint without any particulars whatsoever. This aspect is considered by the Hon'ble Apex Court in various decisions. Here, it would be relevant to refer the judgment of the Apex Court in the case of *Preeti Gupta and Another vs. State of Jharkhand and Another*, reported in (2010) 7 SCC 667 wherein, the Apex Court observed in para Nos.30, 32 and 34 as under :

“30. It has held that “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 like of a large number of people of the society.

32. *It is a matter of common experience that most of these complaints under section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment is also a matter of serious concern.*

34. *Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.”*

9. Similarly, the Apex Court has also considered this aspect in **Kahkashan Kausar @ Sonam vs. State Of Bihar**, reported in (2022) **6 SCC 599** wherein, the Apex Court has observed as under :

“The above mentioned decisions clearly demonstrates that this Court has at numerous instances expressed concern over the misuse of Section 498-A of the IPC and the increased tendency of implicating relatives of the husband in matrimonial dispute, without analyzing the long term ramification of a trial on the complainant as well as the accused. It is further manifest on the said judgments that the false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this court by way of its judgments has warned the courts from proceedings against the relatives and in-laws of the husband when no prima facie case is made out against them.”

10. In **Dara Lakshmi Narayan and Others vs. State of Telangana and Others**, **Manu/SC/1309-2024**, wherein the Hon’ble Apex Court made it clear that family members of the husband ought not to be unnecessarily roped into criminal proceedings arising out of

matrimonial discord. The Court observed that it has become recurring tendency to implicate every member of the husband's family irrespective of their own or actual involvement merely because a dispute has arisen between the spouses. It was further made clear that where the allegations are bereft of specific particulars and particularly where the relatives sought to be implicated are residing separately or have/had no connection with the matrimonial home, allowing the prosecution to proceed would amount to an abuse of the process of law. The Apex Court further noted that criminal law is not to be deployed as an instrument of harassment and that judicial scrutiny shall be exercised to guard against such misuse.

11. In view of the above observations and if the facts of the present case are taken into consideration, admittedly, it is the involvement of the accused in the aforesaid crime is on the basis of a general allegations levelled against the present applicants. In view of that no *prima facie* case is made out to attract the offence under Section 498-A of the I.P.C. and the other provisions of law and therefore, the application deserves be allowed. In view of that we proceed to pass the following order.

ORDER

- i) Application is allowed.
- ii) First Information Report in connection with Crime No.376 of 2022 registered under Section 323, 498-A, 504 and 506 read with

Section 34 of the I.P.C. and consequent proceedings arising out of the same bearing R.C.C. No.2263 of 2023 pending in the Court of 11th Judicial Magistrate First Class, Nagpur, are hereby quashed and set aside.

12. The application is disposed of in the above said terms.

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

TAMBE