



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

Criminal Application (APL) No. 1064 of 2023

1. Swapnil S/o Vijay Karande,
Age 35 Years, Occ. Service,
R/o 503 Kalpacity Tah. Bodalapur,
District Thane
2. Kunda Wd/o Vijay Karande,
Age 60 years, Occ. Household
R/o Plot No. 557C Mahal, Behind
Sangh Building, Nagpur
3. Swati W/o Anurag Kurve,
Age 33 years, Occ. Service,
R/o Plot No. 557C Mahal, Behind
Sangh Building, Nagpur

... Applicants

// VERSUS //

1. State of Maharashtra
through Police Station Officer, Police
Station Mouda, Tah. Mouda, District
Nagpur.
2. Sau. Snehal W/o Swapnil Karande,
Age 30 years, Occ. Private
R/o C/o Manohar Bhujade at Tarsa,
Tah. Mouda, District Nagpur

... Non-applicants

Shri P.S.Sahare, Advocate for the applicants.

Shri A.R.Chutke, Addl. Public Prosecutor for the non-applicant/State.

Shri A.B. Shende, Advocate for the non-applicant no.2.

**CORAM : NITIN B. SURYAWANSHI &
PRAVIN S. PATIL, JJ.**

Reserved on : 12th March, 2025.

Pronounced on : 21st March, 2025

ORAL JUDGMENT : (PER : PRAVIN S. PATIL, J.)

Rule. Rule is made returnable forthwith. By consent of the learned counsel for the parties, the matter is taken for final disposal.

2. When this Court showed disinclination to grant relief to applicant no.1, learned counsel for the applicants on instructions, sought permission to withdraw the application for applicant no.1 Swapnil Karande. Hence, the application of applicant no.1 Swapnil Karande was dismissed as withdrawn.

3. This is an application filed under Section 482 of the Code of Criminal Procedure to quash the First Information Report in Crime No. 0260 of 2023 registered with Police Station Mouda, District Nagpur and consequent Criminal Proceeding bearing Regular Criminal Case No. 158 of 2023 pending on the file of Judicial Magistrate First Class, Mouda for the offence punishable under Section 498-A, 323 read with Section 34 of Indian Penal Code. Applicant no.2 is the mother-in-law of informant and applicant no.3 is the sister-in-law of informant.

4. Heard Shri Sahare, learned counsel for the applicants, Shri Chutke, learned Additional Public Prosecutor for the non-applicant no.1/ State and Shri Shende, learned counsel for the non-applicant no.2.

5. On 26th April, 2023, non-applicant no.2 lodged the report at Police Station Mouda stating that her marriage was solemnized with applicant no.1 Swapnil Karande on 13th February, 2016 immediately after one month of marriage, she along with her husband shifted at Badlapur, District Thane. The allegations against the applicant no.2 in the First Information Report is that while she was residing at Badlapur, applicant no.2 came to her house and handed over some money to her husband. On inquiry by her, it was stated by the applicant no.2 that ornaments i.e. golden chain and ring given by the father of the informant in the marriage was of no use and therefore same was sold and the amount received from sale is handed over to applicant no.1. Further allegation against applicant nos. 2 and 3 is that they used to call telephonically to the applicant no.1/husband and used to instigate him against the informant. As such on their instigation, applicant no.1 on 25th March, 2022 quarreled and beaten her with fist and kick blows. On these allegations offence was registered under Section 498-A, 323 read with Section 34 of Indian Penal Code.

6. Applicants stated that immediately after the marriage, informant along with her husband was shifted to Badlapur, whereas they both are residing at Nagpur. Therefore, there was no reason for them to harass her as alleged. It is further stated that there is no specific allegation against them nor the details of any incidents of instigation are placed on record to attract the provisions of Section 498-A of Indian Penal Code. It is also brought to the notice that in the First Information Report, the incident of beating her by her husband on the instigation of present applicants is of 21st March, 2022, however, the First Information Report is lodged on 26th March, 2023 i.e. almost after a period of one year. On the basis of this allegation no offence is made out against the applicant and it is a clear case where informant has lodged report against the applicants to settle her personal scores against the husband and relatives so as to lower the image of society. It is further stated by the applicants that even if the contents of First Information Report are taken on their face value, they do not disclose commission of any offence at the hands of applicant. Hence, it is a fit case to invoke the powers available to this Court under Section 482 of the Code of Criminal Procedure. It is further stated that

continuation of criminal proceeding against the applicants would be a abuse of process of law.

7. Learned Additional Public Prosecutor appearing for the non-applicant no.1/State stated that the perusal of the First Information Report and the material collected during the investigation clearly established the fact that the offence under Section 498-A of Indian Penal Code is made out against the applicants and therefore it is not a fit case for interference for quashing the First Information Report and consequent criminal proceeding.

8. The non-applicant no.2 in his submission reiterated the contents of the First Information Report and stated that there are specific allegations against the applicants and thereby offence under Section 498-A is made out against them and therefore application deserves to be rejected.

9. We have perused the record the considered the submissions advanced by learned counsel for respective parties.

10. The allegations levelled against the applicants therefore are to be examined on the touchstone of Section 498A of the Indian Penal Code.

11. Section 498A of the IPC is attracted in two contingencies: the first being where the husband or the relative of the husband of a woman, subjects such woman to cruelty.

The cruelty has been explained 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 second being when the husband or the relative subjects such woman to harassment.

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.

12. In the present case, it is clear that allegation against the applicant nos. 2 and 3 are of vague and general nature. Even if the accusation against the applicants are considered on the touchstone of the ingredients of the offence punishable under Section 498-A of Indian Penal Code, they do not disclose cruelty or harassment as defined under Section 498-A of Indian Penal Code. Furthermore, it is not the case of informant/complainant that because of incident as alleged, she attempted to commit suicide or even thought of it. On the contrary allegations made by informant are only of instigation but without giving the details of such instigation.

13. From perusal of contents of First Information Report against family members of husband/applicant no.1, it is clear that ingredients of Section 498-A of Indian Penal Code are not satisfied. Rather it is clear that they have been implicated by informant to settle her personal goals against the husband and his relatives.

14. It would be relevant to refer the relevant judgments of Hon'ble Supreme Court as the First Information Report in question emanates from matrimonial discord.

- (i) Preeti Gupta and another Vs. State of Jharkhand reported in 2010(7) SCC 667;
- (ii) Geeta Mehrota and another Vs. State of Uttar Pradesh and another reported in 2012(10) SCC 741;
- (iii) Arnesh Kumar Vs. State of Bihar reported in 2014(8) SCC 273;
- (iv) Rajesh Sharma Vs. State of Uttar Pradesh reported in 2018(10) SCC 472;
- (v) Kahkashan Kausar alias Sonam and another Vs. State of Bihar reported in 2022(6) SCC 599.

15. The Hon'ble Apex Court has time and again observed that "incorporation of section 498A of IPC was aimed at preventing cruelty committed upon a woman by her husband and her in-laws, by facilitating rapid state intervention. However, it is equally true, that in recent times, matrimonial litigation in the country has also increased significantly and there is a greater disaffection and friction surrounding the institution of marriage, now, more than ever. This has resulted in an increased tendency to employ provisions such as 498A Indian Penal Code as instruments to settle personal scores against the husband and his relatives".

"This court has at numerous instances expressed concern over the misuse of section 498A Indian Penal Code and the increased tendency of

implicating relatives of the husband in matrimonial disputes, without analysing the long term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that 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 proceeding against the relatives and in-laws of the husband when no *prima facie* case is made out against them”.

16. A bare perusal of the First Information Report shows that allegations made by the informant are vague and omnibus. Further informant has not provided any specific details nor described any particular incident of instigation on the part of applicants, she has also not mentioned the time, date, place or manner in which the alleged instigation has occurred. Therefore, the First Information Report in question do not make out ingredients of Section 498-A of Indian Penal Code against the applicant nos. 2 and 3.

17. In the light of vague and omnibus allegations against the applicant nos. 2 and 3 in the First Information Report and charge-sheet,

we are of the opinion that no offence is made out under Section 498-A of Indian Penal Code against the present applicant nos. 2 and 3 and the continuation of criminal proceeding against them would amount to abuse of process of law, therefore same is liable to be quashed and aside. Hence, the criminal application is allowed.

18. First Information Report bearing Crime No. 0260 of 2023 registered with the Police Station Mouda, District Nagpur and consequential proceeding bearing Regular Criminal Case No. 158 of 2023 pending on the file of Judicial Magistrate First Class, Maouda for the offence punishable under Sections 498-A, 323 read with Section 34 of Indian Penal Code is hereby quashed and set aside so far as **applicant no. 2 Kunda Wd/o Vijay Karande** and **applicant no.3 Swati W/o Anurag Kurve** are concerned.

19. Rule is made absolute in the above terms.

[PRAVIN S. PATIL, J.]

[NITIN B. SURYAWANSHI, J.]