



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

CRIMINAL APPLICATION (APL) NO.1433 OF 2024

Dashrath s/o Rajaram Borkar and another
Vs.

State of Maharashtra, through Police Station Officer, Old City Police
Station, Akola and another

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

Court's or Judge's orders

Mr. K. H. Anandani, Advocate for applicants.
Mr. N. H. Joshi, APP for non-applicant No.1/State.

CORAM : URMILA JOSHI-PHALKE AND
NANDESH S. DESHPANDE, JJ.
DATED : 22/12/2025

1. Present application is preferred by the applicants, who are brother-in-law and sister-in-law of the informant for quashing of the First Information Report in connection with Crime No.259/2024 registered with Police Station Old City Akola, District Akola for the offence punishable under Sections 498-A, 504 and 506 read with Section 34 of the Indian Penal Code and the consequent proceeding arising out of the same bearing RCC No.259/2024 pending before the 3rd Joint Civil Judge Junior Division and Judicial Magistrate First Class, Akola.

2. The applicants are arraigned as an accused in connection with Crime No.259/2024 on an allegation that the marriage of the non-applicant No.2 was performed on 02.04.2013. After marriage, she resumed the cohabitation at the house of the present applicants. She alleged that being she is the only daughter of her parents, they have incurred the

expenses in the said marriage, however, her husband was addicted to bad vices like drinking liquor and the present applicants, who are the family members were instigating her husband to ill-treat her and on their instigation, he used to physically and mentally torture her. Thereafter, she filed an application for maintenance and she came to know that the co-accused No.1 is residing with another woman and therefore, she approached to the Police Station and lodged the report. On the basis of the said report, police have registered the crime against the present applicants.

3. Heard learned counsel for the applicants, who submitted that as far as the present applicants are concerned, who are not residing jointly with the informant and her husband. They are residing at different place. Moreover, the nature of the allegation is only to the extent of instigation, no overt act is attributed to them, no specific instances are narrated. Thus, the entire allegation levelled in the FIR, nowhere shows that there was any willful conduct on the part of the present applicants, which is requirement to attract Section 498-A of IPC. They are implicated in the alleged offence merely on the basis of omnibus, vague and general allegations by saying that they have instigated her husband. Thus, considering the nature of the allegation levelled against the present applicants, no *prima facie* case is made out. She further submitted that the FIR came to be lodged only because there is dispute between the husband and wife which reflects from the contents in the FIR that she has already filed an application for grant of maintenance. Thus, considering the

facts and circumstances of the present application, she prays for the quashing of the FIR.

4. Per contra, learned APP strongly opposed for the same and submitted that considering the allegation levelled against the present applicants, the application deserves to be rejected being *prima facie* case is made out.

5. Despite the service and the reply is filed, none is present for the non-applicant No.2.

6. On hearing both sides and on perusal of the recitals of the FIR and the entire investigation papers, admittedly, no overt act is attributed to the present applicants. The investigation papers further shows that they were not residing along with the non-applicant No.2 and her husband. They were residing separately. The only allegation against them is instigation on their part which is also general and vague allegation. It is apparent that their implication is only because they are the relatives of the husband of the non-applicant No.2. Now it became a recurring tendency to implicate every member of the family in such type of the crime and therefore, their implication is there. In view of that, the application deserves to be allowed. Accordingly, we proceed to pass following order:

ORDER

(i) The application is **allowed**.

(ii) The First Information Report in connection with Crime No.259/2024 registered with Police Station Old City Akola, District Akola for the offence

punishable under Sections 498-A, 504 and 506 read with Section 34 of the Indian Penal Code and the consequent proceeding arising out of the same bearing RCC No.259/2024 pending before the 3rd Joint Civil Judge Junior Division and Judicial Magistrate First Class, Akola, is hereby quashed to the extent of the present applicants.

The application is disposed of.

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