



Judgment

503 ap1436.22

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

CRIMINAL APPLICATION (APL) NO.1436 OF 2022

1. Anutai Bhopidas Rathod,
aged about 88 years, occupation-
retired.

2. Sahil Sanjay Rathod,
aged about 32 years, occupation,
business.

3. Sanjay Bhopidas Rathod,
aged about 60 years, occupation-
retired.

4. Sou.Suchita Sanjay Rathod,
aged about 55 years, occupation-
service.

All residents of Tilakwadi, Yavatmal,
tahsil and district Yavatmal.

..... **Applicants.**

:: VERSUS ::

1. The State of Maharashtra,
through Police Station Officer,
Police Station Lonara,
district Yavatmal.

2. Swati Sahil Rathod,
aged about 30 years, resident of
Tilakwadi, plot No.27, Shubham

.....2/-

Colony, Lohara Waghapur by-pass
Road, Yavatmal.

..... **Non-applicants.**

Shri Rohan Deo, Counsel for the Applicants.
Shri M.J.Khan, Addl.PP for the NA No.1/State.
Non-applicant No.2 - In-person.

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

CLOSED ON : 17/11/2025
PRONOUNCED ON : 27/11/2025

JUDGMENT (Per : Urmila Joshi-Phalke)

1. The present application is filed by the applicants for quashment of FIR in connection with Crime No.187/2022 registered under Section 498-A read with 34 of the IPC and consequent proceeding arising out of the same bearing RCC No.689/2025.

2. The applicant No.1 is the grandmother of the applicant No.2 who is husband of non-applicant No.2 (the informant) and applicant Nos.3 and 4 are her in-laws. They are arraigned as accused on the basis of report

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lodged by the non-applicant No.2 on allegations that her marriage was performed with the applicant No.2 on 24.5.2021 as per the Hindu Rites at Yavatmal. Thereafter, she had gone to her matrimonial house. Though the marriage was performed by following all rituals and by giving cash of Rs.1.00 lacs, the applicant No.1, who is grandmother of the applicant No.2, started saying that nothing has been given in the marriage and was continuously taunting her. Though the informant disclosed the said incident of taunting by the applicant No.1 to the applicant Nos.2 to 4, instead of restraining her, they were upholding the side of the applicant No.1. Thereafter, the applicants started demanding gold ornaments from the parents of the informant by saying that the marriage was solemnized in a simple way and no goods were given and, therefore, she should bring amount of Rs.5.00 lacs. Since financial condition of parents of the

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informant was weak, she was unable to fulfill the demand and on that count, she was mentally and physically harassed by the applicants, due to which she was constrained to leave the matrimonial house. On the basis of the said report, the police registered the crime against the applicants.

3. Heard learned counsel Shri Rohan Deo for the applicants, learned Addl.PP Shri M.J.Khan for the State and the informant who is in-person.

4. Learned counsel for the applicants invited our attention to the recital of the FIR and WhatsApp Chats and submitted that the WhatsApp Chats nowhere disclose that she was ill-treated in such a manner that there was no alternative for her but to leave the matrimonial house. On the contrary, the WhatsApp Chats show that the relationship between the applicant No.2 and the informant was smooth and cordial. However, it was informant who

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has left her matrimonial house. He further invited our attention to the cross examination of the informant before the Family Court wherein she has admitted that she is having faith that her husband, the applicant No.2, will maintain her properly. She has also admitted that she has filed report as there was no alternative before her. Thus, he submitted that this cross examination shows that only due to matrimonial dispute between the spouse, the report came to be lodged by the informant.

5. In support of his contentions, learned counsel for the applicants placed reliance on the decisions in the cases of **Sarang Diwakar Amle and ors vs. State of Maharashtra**, reported in 2022 SCC OnLine Bom 4125 and **Nitin Ahuwalia vs. State of Punjab and anr**, reported in 2025 SCC OnLine SC 2013.

6. Learned Additional Public Prosecutor for the State and the informant in-person strongly opposed the

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application on the ground that specific instances narrated by the informant sufficiently show that she was ill-treated by the applicants to such an extent that it was difficult for her to continue the relationship with the applicant No.2 and there was no alternative before her than to leave the matrimonial house. Thus, the act of the applicants covers under the Explanation given under Section 498-A of the IPC. In view of that, the application deserves to be rejected. The informant has placed on record a detailed affidavit and documents.

7. At the outset, it is to be noted that the marriage of the applicant No.2 and the informant was performed on 24.5.2021. The informant neither in her FIR nor in statement of her parents stated the date on which she was constrained to leave the matrimonial house. Recital of the FIR shows that she left the house on 16.8.2021 as she has to appear for examination and, thereafter, she did not turn

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up. She has in her FIR nowhere stated that due to the ill-treatment at the hands of the applicants, on 16.8.2021 she left the matrimonial house. On the contrary, her statement shows that as she has to appear for examination, she came to her parents house. She alleged that after her examination, the applicant No.2 has not returned to fetch her back though she made efforts.

8. It is to be noted that in the FIR as well as in the statements of the witnesses recorded during the investigation, it is stated that after the marriage, the applicant No.2 and other family members started demanding the amount initially of Rs.1.00 lac and, thereafter, Rs.5.00 lacs. However, she has not stated for what purpose the said amount was demanded by the applicants. Recital of the FIR also nowhere shows that when such demand was made by the applicants. The details regarding the demands are lacking. Mere use of

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words harassment “mentally and physically” are not sufficient to attract ingredients of Section 498-A of the IPC unless those acts are described. It cannot be concluded that whether those acts amount to harassment or subjecting a persons to cruelty.

9. Section 498-A of the IPC relates to cruelty by the husband or his relatives, including the father-in-law against the wife. The said Section prescribes punishment where a woman is subjected to cruelty by her husband or his relatives. The offences punishable with imprisonment for a term which may extend to three years and also provide for fine. The Explanation appended to the provisions defines “cruelty” in two parts; (a) any willful 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 and (b) harassment of the woman where

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.

10. Any woman in terms of what has been contemplated under Section 498-A of the IPC should suffer cruelty. The person who has caused such cruelty and the act of such person would be punishable under Section 498-A of the IPC. The inclusion of Section 498-A of the IPC by way of amendment was intended to curb cruelty inflicted on woman by her husband and his family ensuring swift intervention by the State.

11. The ingredients under Section 498-A of the IPC are: (1) the victim must be a married woman, (2) she must be subjected to cruelty or harassment, and (3) this

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cruelty or harassment must have been shown either by husband of woman or by relatives of her husband.

12. The word “cruelty” has also been defined in the Explanation under Section 498-A, it is in two parts. Clause (a) of the said Explanation refers to a 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. Clause (b) of the said Explanation refers to harassment of the woman where 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.

13. It is not the case of the informant that any specific role is played by the any of the accused to harass her for the demand of dowry. In fact, specific instances are narrated by her as to the demand of amount and nature of harassment at the hands of the applicants.

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14. The word “cruelty” having been defined in terms of the aforesaid explanation, no other meaning can be attributed thereto.

15. The Hon’ble Apex Court, in the case of **Digambar and anr vs. State of Mah, reported in 2024 SCC OnLine 3836** while dealing with the appeal against rejection of the application under Section 482 of the CrPC, has held that it was clear that 'cruelty' is not enough to constitute the offence. It must be done with the intention to cause grave injury or drive the victim to commit suicide or inflict grave injury to herself. In the present case, the allegations levelled in the FIR do not reveal the existence of any such allegations. The only allegation that referred to an injury being inflicted against the complainant is a vague statement that the son of the appellants herein used to beat her, but there is no specific allegation of any such injury being caused by the appellants herein.

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It has been further held that mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognized fact, borne out of judicial experience, that there is often a tendency to implicate all the members of the husband's family when domestic disputes arise out of a matrimonial discord. Such generalized and sweeping accusations unsupported by concrete evidence or particularized allegations cannot form the basis for criminal prosecution. Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessary harassment of innocent family members.

16. In the present case, though the allegations are levelled against the applicant No.1, the same are vague and general in nature. No specific instances are narrated

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by the informant as far as ill-treatment and the act of the applicant No.1 is concerned.

17. It is pertinent to note that the applicant No.1 is a lady of 89 years old. The statements of the parents and siblings of the informant also nowhere disclose any specific instances as far as the act of the applicant No.1 is concerned. Neither the statement of the informant nor the statements of her parents or her siblings show that when actually the said demand was made by the applicants and what act was committed by the applicants to get fulfilled the said demand. Mere allegation that she was harassed for the said demand, is not sufficient and specific instances are to be narrated.

18. In view of the judgment of the Hon'ble Apex Court **Digambar and anr vs. State of Mah. *supra***, in the present case also the only allegation is that the informant was mentally and physically harassed, but no specific

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allegation of any such injury being caused by the applicants to her.

19. This aspect is further considered by the Hon'ble Apex Court in the case of **Dara Lakshmi Narayana and ors vs. State of Telangana and anr, reported in 2024 SCC OnLine SC 3682** wherein also it is held an offence is punishable under Section 498A of the IPC when a husband or his relative subjects a woman to cruelty, which may result in imprisonment for a term extending up to three years and a fine. The Explanation under Section 498A of the IPC defines "cruelty" for the purpose of Section 498A of the IPC to mean any of the acts mentioned in clauses (a) or (b). The first limb of clause (a) of the Explanation of Section 498A of the IPC, states that "cruelty" means any wilful conduct that is of such a nature as is likely to drive the woman to commit suicide. The second limb of clause (a) of the Explanation of Section 498A of the IPC,

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states that cruelty means any wilful conduct that is of such a nature as to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman.

20. In the light of the above requirement under Section 498-A of the IPC, if the allegations levelled against the applicants, cross examination of the informant in the matrimonial proceeding, and her WhatsApp Chats are perused, it would show that she has lodged the report as there was matrimonial dispute between her and her husband.

21. As far as allegations of demand and mental and physical cruelty are concerned, no specific instances and no specific allegations are levelled against the applicants.

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22. A bare perusal of the FIR and the statements show that the allegations made against all the applicants are vague and *omnibus* and general in nature.

23. Regarding the implication of all the family members in such type of the crime, the observations of the Hon'ble Apex Court in the case of **Dara Lakshmi Narayana and ors *supra*** are relevant wherein it is observed that a mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognized fact. It is further held that family members of the husband ought not to be unnecessarily roped into the criminal proceeding arising out of the matrimonial discord. The Hon'ble Apex Court observed that it has become a recurring tendency to implicate every member of the husband's family irrespective of their role and actual

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involvement, merely because the dispute has arisen between the spouses.

It is further held that where the allegations are bereft of specific particulars, and particularly where the relatives sought to be prosecuted 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. It is noted that criminal law is not to be deployed as an instrument of harassment and that judicial scrutiny must be exercised to guard against such misuse.

24. In the light of the above observations, if the facts of the present case are taken into consideration, merely on the basis of the vague and general allegations, the applicants cannot be forced the trial. If the applicants are forced to the trial, it would be abuse of process of law .

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25. In this view of the matter, the application deserves to be allowed. Hence, we proceed to pass following order:

ORDER

(1) The Criminal Application is **allowed**.

(2) FIR in connection with Crime No.187/2022 registered under Section 498-A read with 34 of the IPC and consequent proceeding arising out of the same bearing RCC No.689/2025 are hereby quashed and set aside.

Application stands **disposed of**.

(NANDESH S.DESHPANDE, J.)

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

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