



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

CRIMINAL APPLICATION (APL) NO. 1302 OF 2023

1. Uday S/o Rambhau Kosalge
Aged about 64 years, Occ. Business,
2. Manda W/o Uday Kosalge
Aged about 55 years, Occ. Household

Applicants No.1 & 2 are residents of
Paldiwal Layout, Pusad, Tq. Pusad,
Distt. Yavatmal.

3. Nikita W/of Shubham Bokilwar
Aged about 28 years, Occ. Private
4. Shubham S/o Sunil Bokilwar
Aged about 29 years, Occ. Private

Applicants Nos.3 & 4 are residents of
Ralegaon, Ward No.4 & 5,
Tq. Ralegaon, Distt. Yavatmal at present
resident of Dream Residency, Survey No.154,
Yerwada, Pune

... Applicants

Versus

1. State of Maharashtra,
Through its Police Station Officer,
Police Station, Pusad City,
Dist. Yavatmal
2. Priyanka w/o Kapish Kosalge
Aged about 31 years, Occ. Service,
R/o. Plot No.702, Tower 5 Sky Startown,
Survey No.21, Behind Shell Petrol Pump
Bhukum, Tq. Morshi, Distt. Pune
R/o. Aai Building, Ganesh Ward Pusad City,
Pusad, Dist. Yavatmal

... Non-applicants

Mr. Alpesh Deshmukh, Adv. a/w Ms Kirti Deshpande, Adv. for applicants.
Mr. N.H. Joshi, APP for non-applicant No.1.
None for non-applicant No.2.

CORAM : ANIL S. KILOR, AND
PRAVIN S. PATIL, JJ.

DATE : 02.04.2025

ORAL JUDGMENT: (Per: Pravin S. Patil,J)

Heard

(2) **RULE.** Rule made returnable forthwith. Heard by consent of the learned counsel for the parties.

(3) By way of present application, the applicants are seeking to challenge the proceedings bearing Regular Criminal Case No.437/2023 pending before the learned Judicial Magistrate First Class, Pusad, arising out of First Information Report dated 21.06.2023 registered with Police Station Pusad City, District : Yavatmal, vide Crime No.0429/2023, for the offences punishable under Sections 498-A, 506 read with Section 34 of the Indian Penal Code.

(4) In short, the case of the prosecution is that on 21.06.2023 the non-applicant No.2 lodged a complaint with the Police Station Pusad, stating that her marriage was solemnized with accused No.1 namely Kapish Uday Kosalge on 08.12.2022. The said marriage was performed at Pusad as per the Hindu Rites and Customs. Immediately after the marriage, she was

shifted with her husband at Pune. At Pune, she was given ill-treatment by her husband as he was a heavy drinker and not at all attentive towards informant. She further stated that the applicant Nos.1 & 2, who are father-in-law and mother-in-law when came to her house at Pune, they used to insult her by saying that their son would have get good looking wife than her and further shows their dis-satisfaction towards parents of informant for not paying handsome dowry at the time of marriage.

(5) The informant alleged that she was called by her sister-in-law on 28.01.2023 to attend one party with her husband. Informant opposed to attend the said party as said party was arranged for the purpose of drinking liquor. On that count, she was beaten by her husband on that day. As such the only allegation against the sister-in-law is that she invited for party and on denial of informant to attend, she instigated complainant's husband to beat her.

(6) It is alleged by informant that due to continuous harassment at the instance of her husband, she left his company and came to the house of father-in-law in the month of February, 2023 and narrated them the harassment she suffered at the hands of their son. At that time, the mother-in-law was not ready to allow informant to reside with them.

Accordingly, she was driven out from the house on 08.03.2023. Therefore, non-applicant No.2/informant lodged complaint against the husband and all the accused persons. On the basis of this allegation, Police Station Pusad (City), registered the offences punishable under Sections 498-A, 506 read with Section 34 of the Indian Penal Code vide Crime No.0429/2023 on 21.06.2023.

(7) The present applicants, are father-in-law, mother-in-law, sister-in-law and brother-in-law of the non-applicant No.2/informant.

(8) During the pendency of the present application, the investigating agency completed the investigation and on 08.09.2023, filed a charge-sheet bearing No.578/2023 and consequently, the proceedings were registered against the applicants vide R.C.C. No.437/2023.

(9) The non-applicant No.2, after her appearance in this case, filed her reply in the matter and reiterated the allegations which she levelled against the applicants in the First Information Report and statement recorded before the Investigating Officer. As such, it is her submission that allegations are of serious nature and therefore, it is not a fit case to invoke inherent powers by this Court, nor applicants made out any case to quash and set aside the

criminal proceeding pending against them.

(10) We have heard the learned counsel for the applicants and learned APP for the State. In the present case, though the non-applicant No.2 filed her reply in the matter, she was absent when the matter was called out for hearing. It is seen from record that since last three to four dates, no-one is appearing on behalf of non-applicant No.2/informant in the matter. Hence, we have heard the submissions made by the learned counsel for the applicants and learned APP for the State and proceeded to decide the matter on its own merit.

(11) The applicants stated that they are relatives of husband and have played no role in the commission of offence as alleged. It is specifically stated by them that the applicant Nos.1 and 2 are residing at Pusad and applicant Nos.3 and 4 are residing at Pune, but their houses are separate than the house of the informant's husband at Pune. Their residences being separate, they have no daily connection with the non-applicant No.2. However, merely because they are the relatives of husband of non-applicant No.2, they have been falsely implicated in the present crime by making vague and omnibus allegations against them. In short, it is their submissions that considering the allegations in the FIR and charge-sheet, no case is made out

against them and therefore, by considering the well settled principles of law, the criminal proceedings pending before them deserves to be quashed and set aside.

(12) The learned APP stated that after investigation by the Investigating Officer, the allegations made by non-applicant No.2 found to be true and correct, hence, it is not a case for interference at this stage in the matter.

(13) The non-applicant No.2 by filing her reply reiterated the entire story which she has narrated in her complaint. According to her, the present applicants are the instigators, because of whom she cause harassment at the hands of her husband. Hence, considering the allegations of instigation, the offence under Section 498-A of the IPC is attracted and therefore, present application deserves to be rejected.

(14) After perusing the entire record of the matter and offence being registered under Sections 498-A, 506 read with Section 34 of the Indian Penal Code against the present applicants, it will be necessary to first examine provisions of Section 498-A of the IPC, which reads as under :

“498-A - Husband or relative of husband of a woman subjecting her to

cruelty - *Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.*

Explanation —For the purposes of this section, "cruelty means"—

(a) 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; or

(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.]”

(15) From bare perusal of provision, it is clear that to made out offence under Section 498-A of IPC requirement is that there has to be cruelty inflicted against the victim which either drives her to commit suicide or cause grave injury to herself or lead to such conduct that would cause grave injury or danger to life, limb or health and secondly, harassment with a view coercing her to satisfy an unlawful demand for any property or valuable security raised by the husband or his relatives.

(16) Keeping in mind the above said legal position, we have perused the FIR and charge-sheet and the allegations against the present applicants, who are in-laws of non-applicant No.2/informant. It is clear that all the allegations are vague and omnibus and do not inflict mental or

physical cruelty upon non-applicant No.2, coupled with the fact that, no specific instances of such instigation are mentioned in her complaint. A bare perusal of the FIR shows that, no specific role is attributed on either of the applicants nor specific incident of physical or mental cruelty has been mentioned. On the contrary, what we can gather from the perusal of the FIR and charge-sheet is that only the allegations of instigation to husband to harass the informant are levelled by her. In this regard, the law is well settled and recently the Hon'ble Supreme Court of India in the case of ***Digamber and another Vs. State of Maharashtra and anr.***, in Criminal Appeal No.....of 2024 (Arising out of SLP (Cri.) No.2122/2020), the Hon'ble Supreme Court has observed thus :

*“20. It would be appropriate to refer to a recent decision of this Court in Criminal Appeal 5199 of 2024 titled as **Dara Lakshmi Narayana and Others vs. State of Telangana and Another.** This court dealt with the ingredients of Section 498-A and whether the same are attracted through vague allegations raised by the complainant (wife). It was observed that:*

17 to 24. ...

25. 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-recognised 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 generalised and sweeping accusations unsupported by concrete evidence or particularised 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. In the present case, appellant Nos.2 to 6, who are the members of the family of

appellant No.1 have been living in different cities and have not resided in the matrimonial house of appellant No.1 and respondent No.2 herein. Hence, they cannot be dragged into criminal prosecution and the same would be an abuse of the process of the law in the absence of specific allegations made against each of them.”

(17) The facts of the present case are somewhat of similar nature because in this case also the only allegation made by the applicants that when applicant Nos.1 and 2 came at Pune, they have tortured her, however, no details are given in the complaint nor in the statement. There are no incidents quoted as to when they came to Pune and the nature of tortured.

Likewise, in respect of applicant Nos.2 and 3, who are the sister-in-law and brother-in-law, only allegation against them that she was called by them to attend party on 28.01.2023 and compelled her to participate in the said party. However, as she refused to attend the said party, the accused No.1/husband has beaten her.

Likewise against applicant Nos.1 & 2, she alleged that in the month of February, 2023, when she returned back to the house of applicant Nos.1 & 2, she was harassed at the hands of applicants. But again, the allegations are vague and omnibus and do not inspire confidence.

Hence, *prima facie* it can be said that the vague allegations of cruelty are levelled against the applicants only with a view to drag them into

the crime without any reason.

(18) In view of above said factual as well as legal position, we do not find that offences under Sections 498-A and 506 read with Section 34 of the Indian Penal Code are attracted against the present applicants, who are in-laws of informant and all the allegations according to us are vague and omnibus, therefore, we have no hesitation to quash and set aside the criminal proceedings pending against the applicants. Hence, we proceed to pass the following order :

ORDER

- (i) The criminal application is allowed.
- (ii) The criminal proceeding bearing RCC No.437/2023 pending before the Judicial Magistrate First Class, Pusad, District : Yavatmal arising out of FIR in Crime No.0429/2023 registered with Police Station Pusad City, District : Yavatmal for the offences punishable under Sections 498-A, 506 read with Section 34 of the Indian Penal Code is hereby quashed and set aside against the applicants only.

[Pravin S. Patil, J.]

[Anil S. Kilor, J.]

Prity