



(1)

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

CRIMINAL APPLICATION (APL) NO.1090 OF 2025

1. Nitin s/o Chokhoba Borkar,
Aged about 48 Years,
Occupation : Service,
R/o. Plot No.98B,
Jaunjal Layout,
Abhay Nagar, Nagpur.
2. Sarita Wd/o. Chokhoba Borkar,
Aged about 73 Years,
Occupation : Housewife,
3. Dipti w/o Shashank Meshram,
Aged about 44 years,
Occupation : Housewife,
Both 2 and 3 R/o. Khamla,
Nagpur.

.... APPLICANTS

// VERSUS //

1. State of Maharashtra,
Through Police Station,
Immamwada, Nagpur.
2. Rupali w/o Nitin Borkar,
Aged about 41 years,
Occupation : Service,
R/o. 488-A, behind Union Bank,
Near Bante's House
Reshimbag Road, Siraspeth,
Nagpur.

.... NON-APPLICANTS

Mr. S. H. Nagrale, Counsel for the applicants.
Ms. H. N. Prabhu, APP for non-applicant No.1/State.
Mr. V. V. Joshi, Counsel for the non-applicant No.2.

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

DATED : 30/09/2025

ORAL JUDGMENT : [Per : URMILA JOSHI-PHALKE, J.]

(2)

1. **Admit.**

2. Heard finally with the consent of the learned Counsel for the parties.

3. The present application is preferred by the applicants for quashing of the First Information Report in connection with Crime No.120/2023 registered with Police Station Immamwada, Nagpur, District Nagpur for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code and subsequent proceeding arising out the same Regular Criminal Case No.3246/2023 pending before the Judicial Magistrate First Class, Nagpur.

4. The crime is registered on the basis of a report lodged by the informant non-applicant No.2 on an allegation that her marriage was performed with applicant No.1 on 28.06.2009 and from the said wedlock, she has begotten two daughters. After marriage, she has resumed the cohabitation, but for no reason she was ill-treated by the present applicants. It is alleged that the applicant No.2 mother-in-law used to instigate her husband and her husband was harassing physically as well as mentally. She has also stated that the applicant No.3, who is sister-in-law had been to her house in the year 2011 and instigated her husband and therefore, her husband has abused her and

(3)

ill-treated her. On the basis of the said report, police have registered the crime against the present applicants.

5. Heard learned Counsel for the applicants, who submitted that to give the counterblast to the complaints filed by the husband and other family members, this false FIR came to be lodged. He submitted that as far as the nature of the allegations is concerned, which are general and omnibus allegations, no specific instances are narrated by the informant. No purpose would be served by forcing the present applicants to face the trial. In support his contention he placed reliance on the decision of **Dara Lakshmi Narayana and others vs. State of Telangana and another** reported in **(2025) 3 SCC 735** and **Sanjay D. Jain and Ors. Vs. State of Maharashtra and Ors. in Special Leave Petition (Crl.) No.12584/2024 decided on 26.09.2025.**

6. Per contra, learned APP and learned Counsel for the non-applicant No.2 strongly opposed for the same and submitted that as far as the husband is concerned, there are specific allegations levelled against him. The informant has also narrated the acts of the applicant Nos.2 and 3 and specific instances are narrated. Thus, *prima facie* material is there to face the charge and therefore, the application deserves to be rejected.

(4)

7. On hearing both sides and on perusal of the recitals of the FIR and the investigation papers, admittedly, the nature of the allegation against the mother-in-law is of wear and tear nature and as far as the applicant No.3 sister-in-law is concerned, the incident narrated by the informant is of year 2011, whereas the FIR was lodged in the year 2023 i.e. 13.04.2023. Except that instance, no other instance is narrated after 2011 by the informant against the applicant No.3 is concerned. On perusal of the entire charge sheet and careful scrutiny of the FIR shows that vague, omnibus and general allegations are levelled against the applicant Nos.2 and 3 regarding ill-treating for trifle reasons. It is not clarified as to when such demand or such instigation was made by the applicant Nos.2 and 3. As far as the applicant No.1 is concerned, admittedly, there are allegations which attract physical as well as mental cruelty at the hands of the husband. At this stage, reference can be given to Section 498-A of 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.

(5)

Explanation -- For the purpose 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 meet such demand."

8. The careful scrutiny of the charge sheet shows that the statements of the parents and the other relatives are recorded all statements are omnibus and stereotype and not disclose any particulars about the ill-treatment at the hands of the applicant Nos.2 and 3.

9. At this stage, reference can be given to the observation made by the Hon'ble Apex Court in the case of **Kahkashan Kausar @ Sonam vs The State of Bihar** reported in **(2022) 6 SCC 599**, wherein the Hon'ble Apex Court after considering the various decisions observed that:

"The above-mentioned decisions clearly demonstrate that this court has at numerous instances expressed concern over the misuse of section 498A IPC and the increased tendency of implicating relatives of the husband in

(6)

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."

10. The similar observation is made by the Hon'ble Apex Court in the case of **Dara Lakshmi Narayana and others** referred by the learned Counsel for the applicants, wherein it has made 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 a recurring tendency to implicate every member of the husband's family, irrespective of their role or actual involvement, merely because a dispute has arisen between the spouses.

11. In view of the above observation of the Hon'ble Apex Court, if the facts and circumstances of the present case are taken into consideration, admittedly, general and omnibus allegations are levelled against the applicant Nos.2 and 3 are concerned. As far as the applicant No.1 is concerned, there is a specific allegation. The acts of applicant No.1 are narrated by the informant in the FIR as

(7)

well as the statement recorded subsequently to the registration of the FIR. In view of that, the application deserves to be allowed partly. Accordingly, we proceed to pass following order:

ORDER

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

(ii) The First Information Report in connection with Crime No.120/2023 registered with Police Station Immamwada, Nagpur, District Nagpur for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code and subsequent proceeding arising out the same Regular Criminal Case No.3246/2023 pending before the Judicial Magistrate First Class, Nagpur, are hereby quashed to the extent of applicant No.(2) Sarita Wd/o. Chokhoba Borkar and applicant No.(3) Dipti w/o Shashank Meshram.

(iii) The prayer of the applicant No.1 Nitin s/o Chokhoba Borkar for quashing of the FIR is hereby rejected.

The application is disposed of in the above said terms.

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