



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

Criminal Application (APL) No. 1488 of 2022

1. Mohsin Hussain,
Aged about 30 years, Occ. Nil,
R/o Jamil Colony, Walagaon Road,
Amravati, Tq. and District Amravati
2. Mobin Hussain,
Aged about 37 years, Occ. Pvt. Job,
R/o NIBM Road, Khondawa Khurd,
Pune
3. Dilshad Yasmin Hussain,
Aged about 61 years, Occ.
R/o Walgaon Road, Amravati, Tq. and
District Amravati
4. Sumaiya Mobin Hussain,
Aged about 36 years,
Occ. : B.D.S.Doctor,
R/o NIBM Road, Khondawa Khurd,
Pune

... Applicants

// VERSUS //

1. State of Maharashtra
through its Police Station Officer,
Police Station Hinganghat, District
Wardha
2. Shahin Mohasin Hussain,
Aged about 33 years, Occ. Advocate
R/o Indira Gandhi Ward, Hinganghat,
District Wardha.

... Non-applicants

Ms. Astha Sharma Advocate along with Shri P.R.Agrawal, Advocate for
the applicants.

Shri Sagar Ashirgade APP for the non-applicant/State
Shri V.V.Bhagde, 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. This is an application under Section 482 of the Code of Criminal Procedure to quash and set aside the First Information Report in Crime No. 471 of 2022 registered with Police Station Hinganghat, District Wardha and consequent criminal proceeding bearing Regular Criminal Case No. 437 of 2022 pending on the file of learned Judicial Magistrate First Class, Hinganghat for the offence punishable under Sections 498-A read with Section 34 of Indian Penal Code.

3. Heard Ms. Astha Sharma learned counsel for the applicant, Shri Sagar Ashirgade, learned Additional Public Prosecutor for the non-applicant/State and Shri V.V.Bhagde, learned counsel for the non-applicant no.2.

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

5. In the present case, applicant no.1 is the husband of informant, applicant no.2 is the brother-in-law of the informant, applicant no.3 is the mother-in-law of the informant and applicant no.4 is the wife of applicant no.2 of informant. All the applicants are residing at Amravati. Applicants are arrayed as accused nos. 1 to 4 in the impugned First Information Report.

6. The marriage of informant with applicant no.1 was solemnized on 21st October, 2020 at Hinganghat during the restrictions of Covid-19. Informant/non-applicant no.2 is a law graduate and after marriage she has worked as a contributory lecturer at Punjabrao Deshmukh Law College, Amravati.

7. The informant on 21st April, 2022 lodged police complaint against the applicants and other family members by stating that after her marriage on 21st October, 2020, she had started residing at Amravati. Her husband and applicant no.2 were working in a private company at Pune before her marriage. She has made specific allegation against the husband

that he is having illicit relations with one Aarti Ranpise R/o Pune. The said fact came to her knowledge when she once picked up a telephonic call on the mobile of applicant no.1. She further alleged that applicant no.1 is habitual drinker and he used to harass her mentally and physically. Due to the harassment at the instance of applicant no.1, she made complaint against her husband to the applicant nos. 2 and 3. However, instead of giving understanding to the applicant no.1, applicant nos. 2 and 3 had blamed her by stating why she has quarreled with the applicant. Due to that incident, she had attempted to commit suicide. The present applicants rescued her from committing suicide and called one of her relative namely Dr. Mujaheed Siddique to the house of applicants. Dr. Mujaheed Siddique being a maternal father-in-law of informant, informant was shifted to his house. She alleged that in the house of Dr. Mujaheed Siddique, after her brothers reached, there applicant nos. 2 and 3 quarreled with them by alleging that informant is trying to entangle applicants in the matter, and there was hot exchange of words between them. She tried to resolve that controversy but at that time applicant no.3, maternal mother-in-law Shahnaj Siddique and applicant no.4 grabbed her hair and beaten her by fists and kick blows. Her brothers

rescued her in that incident. Her brothers decided to take her back to Hinganghat, however, when they were on the way to Hinganghat, they received one phone call stating that applicant no.1 met with an accident and found to be unconscious. As such, informant and her brother came back to Amravati at 11 pm. At that time, applicant no.1 was found to be unconscious and admitted in hospital.

9. It is alleged by informant that in the hospital, applicant no.3 and 4 abused her in a filthy language by alleging that because of her, applicant no.1 met with the accident. Then she stated that she has taken full care of applicant no.1 in the hospital, till he recovered. It is alleged by informant that when her husband was facing health problems, the applicant no. 2 attempted to outrage her modesty.

10. She further alleged that in the month of August, 2021, applicant no.3 decided to construct rooms in front of their house for giving it on rent for shops. At that time, she was asked to bring amount of Rs.5,00,000/- from her parents. According to informant on 7th December, 2021, she collected Rs.2,00,000/- from her mother and handed it over to the applicant no.2. However, as remaining amount was

not brought by her she was mentally and physically harassed by the applicants.

11. It is further stated by the applicant that from 20th January, 2022, she was at Hinganghat. At that time on 16th February, 2022 her husband/applicant no.1 under the influence of liquor came to her house and asked the applicant to come along with him to Amravati. At that time she told to the applicant that on 20th February, 2022 there is a marriage in her house and after that marriage they will go to Amravati. On that count there was a quarrel, and applicant no.1 has beaten her. At that time, mother of informatn sent the appicant no.1 at Nagpur to his relatives house. On that day, she has called telephonically to the applicants and stated that she has been cheated by the applicants and she is going to file police complaint against them. In the night of same day, i.e. around 1 pm, applicants along with one Shamim Sheikh came at Hinganghat and asked her as to why she wants to lodge complaint against them and quarreled with her at midnight and immediately thereafter he went back to the Amravati.

12. On 17th February, 2022 informant had lodged complaint to the Police Station Hinganghat. Considering the averment of said report Police Station Hinganghat recorded the same as non-cognizable offence bearing 204 of 2022 (Page 87 of the record) and referred the matter to the women's grievance redressal centre. For enquiry when applicant no.1 was called, it was informed by applicant no.3 that husband of informant is admitted to de-addiction centre at Bhandara. Therefore, he will be unable to attend grievance redressal centre. Thereafter, according to informant on 3rd March, 2022, she came at Amravati along with her maternal aunt Shabira Khan and her son Wasim Khan. On the day of visit, applicant no.2 has quarrelled with her and outraged her modesty. Therefore, she went to police station and lodged the report against him. As such, on her complaint vide Crime No. 0161 of 2022, offence under Sections 354, 354-A and 506 of Indian Penal Code were registered against the applicant no.2 at Police Station Nagpuri Gate, District Amravati. She stated that on next date i.e. 4th March, 2022, she returned back to Hinganghat. On 9th March, 2022 she again approached to the grievance redressal centre and on her complaint all the applicants were called at Police Station Hinganghat. On 1st April, 2022, the applicants

were present at Hinganghat before grievance redressal center, but there grievance was not redressed. Hence, she lodged the police complaint against the applicants.

13. During the pendency of the proceedings before this Court, on completion of investigation, charge-sheet came to be filed on 21st April, 2022 consequently Regular Criminal Case No. 437 of 2022 is registered against applicants.

14. The present applicants submitted that informant/non-applicant no.2 is a law graduate and was contributory lecture at Punjabrao Deshmukh Law College, Amravati. As such she being legal expert cleverly drafted First Information Report to implicate all family members in the offence under Section 498-A of Indian Penal Code.

It is further pointed out by the applicants that she has initially lodged complaint at Police Station Hinganghat on 17th February, 2022. A bare perusal of the same shows that no specific allegations were made against any of the applicants and therefore same was recorded as non-cognizable offence.

It is further pointed out by the applicants that some of the accused persons who are the relatives of applicant no.1 had already approached before this Court vide criminal application No. 925 of 2022 to quash proceeding registered against them in same offence. This Court by order dated 30th September, 2022 allowed their application and offence registered against them under Section 498-A of Indian Penal Code was quashed and set aside.

According to the applicants, if the contents of the First Information Report considered as a whole it is clear that registration of the First Information Report is nothing but abuse of process of law as no offence is made out under Section 498-A of Indian Penal Code against the family members of applicant no.1/husband.

15. Learned Additional Public Prosecutor stated that considering the allegations of the First Information Report, investigation has been conducted. During the investigation, the investigating agency recorded the statement of family members of informant and other concerned persons who supported the case of prosecution. As such, the evidence collected during the course of investigation clearly shows that the present

applicants are involved in the commission of crime. The same will be proved at the time of trial and therefore this is not a fit case for exercising powers under Section 482 of the Code of Criminal Procedure.

16. Non-applicant no.2 in her affidavit in reply stated that all the statements made by her in the First Information Report are true and correct. She has been tortured and harassed by the applicants. Applicants demanded Rs.5,00,000/- and failure on her part to satisfy the said demand, she was harassed at the hands of applicants. As such informant stated that statements made in the First Information Report makes out the case of cruelty by the applicants and therefore there is no merit in the application and same deserves to be rejected by imposing exemplary costs.

17. After hearing the parties and on perusal of the record, it is clear that applicant nos. 2 and 4 are residing at Pune. Applicant no.3 is 61 years old lady residing at Amravati.

As per averments of First Information Report in question, it is admitted fact the informant on 24th May, 2021 attempted to commit suicide and applicants by taking efforts prevented her from committing suicide. On same day, applicant no.1 met with an accident and was

hospitalized for a long period. Then upto 20th January, 2002 she resided with them and then went to Hinganghat. Her husband when reached to Hinganghat to take her back to Amravati there was quarrel between them on 16th February, 2022. Then, on 17th February, 2022, she lodged police complaint. But said complaint was referred to grievance centre. As the grievance was not settled, she lodged First Information Report against applicant at Amravati.

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

18. Section 498-A 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 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.

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.

19. In the First Information Report, the allegations are made that on 24th May, 2021 informant has attempted to commit suicide and she was prevented by family members of applicant no.1 in doing so. Bare perusal of the said contents of First Information Report shows that she has quarreled with applicant no.1 and thereafter she approached to the applicant nos. 2 and 3 to give understanding to the husband. Applicant nos. 2 and 3 did not give positive response to her and therefore she has attempted to commit suicide. We are of the view that such conduct of applicant nos. 2 and 3 does not attract Section 498-A of Indian Penal Code against them. Furthermore, after 24th May, 2021 till the date of lodging of complaint, she has resided with the applicants. The said period is more than one year. Informant who is a law graduate did not file any

complaint immediately after that incident nor whispered about same in any other complaints lodged by her.

20. The other allegations of the informant against the applicant no.2 that he used to outrage her modesty when her husband was admitted to Hospital and bed-ridden in house. But to support this submission there are no details are quoted in the First Information Report. More importantly for a period of one year, she has never raised any grievance before any one of the family. Furthermore, applicant no.2 is married and has a job at Pune in Private Company. Therefore, in absence of details, such vague and omnibus statement are not acceptable in the matter.

21. That against the applicant no.3, informant has made allegations that she has demanded Rs.5,00,000/- and out of which on 7th December, 2021 her mother has given Rs.2,00,000/- to her and she has handed over the same to the applicant no.3. However, in support of this submission, except statement, nothing is available on record. The allegation is vague and the same cannot be termed as demand of dowry. If shops were to be given on rent, then there was no need to furnish them. Therefore, the demand of Rs.3,00,000/- for furniture in shops is not

believable. More importantly in her earlier complaint dated 17th February, 2022, she has not whispered anything about this allegation against the applicant no.3. Hence it can be said that this allegation is made afterthought to involve all the family members in the offence.

22. It is further pertinent to note that from the contents of First Information Report it is clear that parties were trying to resolve their dispute before grievance redressal center at Hinganghat. Accordingly, on 1st April, 2022 all the family members of applicant no.1 were present before that grievance redressal center at Hinganghat but dispute was not resolved therefore as per own averment of informant complaint is filed. Therefore, such complaint at the instance of informant is certainly afterthought and it appears to have been filed only to harass the entire family members of husband.

23. It is further pertinent to note that, other accused persons / relatives of husband had filed Criminal Application No. 925 of 2022 before this Hon'ble Court. This Court by judgment and order dated 30th September, 2022, quashed and set aside the First Information Report registered against them by holding that no offence is made out against

them under Section 498-A of Indian Penal Code. Therefore, it can be said that informant is trying to misuse of Section 498-A of Indian Penal Code for unleashing personal vendetta against relatives and family members of husband, by making vague and general allegations against them. Hence, indulgence is necessary in the present matter.

24. Inclusion of Section 498-A of Indian Penal Code was intended to curb cruelty inflicted to woman by her husband and his family members ensuring swift intervention by the State. However, in the recent years as there have been a notable rise in matrimonial dispute across the country accompanied by growing discord and tension within the institution of marriage, consequently there has been growing tendency to misuse of provisions like 498-A of Indian Penal Code against the applicants and his family members by wife. Making vague and general allegations during matrimonial conflict, if not scrutinized, will lead to the misuse of legal process and an encouragement for use of arm twisting tactics by wife. Sometimes recourse is taken to invoke Section 498-A of Indian Penal Code against husband and his family members in order to seek compliance with the unreasonable demands of a wife.

Consequently, Hon'ble Apex Court as well as this Court has time and again cautioned against prosecuting the husband and his family.

25. Following observations of Hon'ble Supreme Court of India in the case of Achin Gupta vs The State of Haryana reported in AIR 2024 SCC 2548 support the case of applicants:

“30. It is a matter of common experience that most of these complaints under section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.

31. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fiber, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

33. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent to find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At

times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful.

32. Many times, the parents including the close relatives of the wife make a mountain out of a mole. Instead of salvaging the situation and making all possible endeavours to save the marriage, their action either due to ignorance or on account of sheer hatred towards the husband and his family members, brings about complete destruction of marriage on trivial issues. The first thing that comes in the mind of the wife, her parents and her relatives is the Police, as if the Police is the panacea of all evil. No sooner the matter reaches up to the Police, then even if there are fair chances of reconciliation between the spouses, they would get destroyed. The foundation of a sound marriage is tolerance, adjustment and respecting one another. Tolerance to each other's fault to a certain bearable extent has to be inherent in every marriage. Petty quibbles, trifling differences are mundane matters and should not be exaggerated and blown out of proportion to destroy what is said to have been made in the heaven. The Court must appreciate that all quarrels must be weighed from that point of view in determining what constitutes cruelty in each particular case, always keeping in view the physical and mental conditions of the parties, their character and social status. A very technical and hyper sensitive approach would prove to be disastrous for the very institution of the marriage. In matrimonial disputes the main sufferers are the children. The spouses fight with such venom in their heart that they do not

think even for a second that if the marriage would come to an end, then what will be the effect on their children. Divorce plays a very dubious role so far as the upbringing of the children is concerned. The only reason why we are saying so is that instead of handling the whole issue delicately, the initiation of criminal proceedings would bring about nothing but hatred for each other. There may be cases of genuine ill-treatment and harassment by the husband and his family members towards the wife. The degree of such ill-treatment or harassment may vary. However, the Police machinery should be resorted to as a measure of last resort and that too in a very genuine case of cruelty and harassment. The Police machinery cannot be utilised for the purpose of holding the husband at ransom so that he could be squeezed by the wife at the instigation of her parents or relatives or friends. In all cases, where wife complains of harassment or ill-treatment, Section 498A of the IPC cannot be applied mechanically. No FIR is complete without Sections 506(2) and 323 of the IPC. Every matrimonial conduct, which may cause annoyance to the other, may not amount to cruelty. Mere trivial irritations, quarrels between spouses, which happen in day-to-day married life, may also not amount to cruelty.”

26. Learned counsel for the non-applicant no.2 relied upon the judgment of Hon'ble Apex Court of India in the case of State of Orissa Vs. Pratima Mohanty and others reported in 2022 (16) SCC 703 to state that power of quashing should be exercised sparingly and with circumspection and in rare cases. Quashing of a complaint/FIR should be an exception rather than any ordinary rule. Learned counsel for the non-applicant no.2 is correct in stating that normally the powers of quashing should be exercised sparingly in rare cases.

27. *State of Haryana Vs. Bhajanlal* reported in *AIR 1992 SC 604*,

Hon'ble Supreme Court has given illustrative categories as to when the powers under Section 482 of Code of Criminal Procedure are required to be invoked to prevent abuse of process of court or miscarriage of justice. Accordingly, if it is found that "criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge". Powers under Section 482 of the Code of Criminal Procedure should be exercised to prevent abuse of process of court or miscarriage of justice.

Hence, considering the facts of the present case and the allegations in the First Information Report, it is clear that the same appears to be manifestly attended with malafide intention and ulterior motive for wreaking vengeance against the applicants. Therefore this is a fit case to invoke the powers under Section 482 of the Code of Criminal Procedure.

28. After going through the contents of the First Information Report, it is clear that informant has made out the case against the

applicant/husband only. No case is made out against the family members of the husband. Allegations against them are vague and omnibus. On the basis of such allegation continuation of prosecution against applicant nos. 2 to 4 will certainly cause mental trauma and humiliation also result in serious repercussions on career progress and future prospects of applicant nos. 2 to 4. So also such allegations tend to tarnish the reputation and image of accused persons amongst friends, family and colleagues. Hence, considering the overall factual position, it can be said that prosecution under Section 498A of Indian Penal Code can only be continued against the applicant no.1 husband. Continuation of prosecution against the applicant nos. 2 to 4 would be an abuse of process of law and therefore same is liable to be quashed and set aside against them. Hence, we proceed to pass the following order.

- i. Criminal application No. 1488 of 2022 is partly allowed.
- ii. Application against applicant no.1 is dismissed.
- iii. Regular Criminal Case No. 437 of 2022 pending on the file of Judicial Magistrate First Class, Hinganghat arising out of FIR Crime No. 471 of 2022 registered with Police Station Hinganghat, Wardha for

the offence punishable under Section 498-A read with Section 34 of Indian Penal Code is hereby quashed and set aside so far as against the applicant nos. 2 to 4 only.

Rule is made absolute in the above terms.

[PRAVIN S. PATIL, J.]

[NITIN B. SURYAWANSHI, J.]