



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

CRIMINAL APPLICATION (APL) NO.1416 OF 2023

- APPLICANT(S)** : 1) **Vishal s/o Ashok Dhakate,**
Aged about 30 years, (son)
Occupation - Private Service.
- 2) **Sau Shalini w/o Ashok Dhakate,**
Aged about 58 years, (Mother)
Occupation - Housewife.
- 3) **Ashok s/o Namdeo Dhakate,**
Aged about 60 years, (Father) Occupation
- Retd. Govt. Servant
- Nos.1 to 3 R/o.823/25, Sainik Colony,
Shahid Gulabsingh Ward, Jabalpur,
Garaha Police Station Jabalpur, Tah. and
District -Jabalpur (M.P.).
- 4) **Sanjay Keshavrao Barapatre,**
Aged about 57 years, (uncle)
Occupation - Govt. Service, R/o.
Chandrakiran Nagar, Behind Petrol Pump,
Hidkeshwar, Police Station, Hudkeshwar,
Nagpur.

..VERSUS..

- NON-APPLICANT(S)** : 1) **State of Maharashtra,**
Through Police Station Officer, Police
Station Hudkeshwar, Nagpur, Tah. and
District -Nagpur.
- 2) **Nidhi Vishal Dhakate,**
(Before marriage Nidhi Punnaji Paunikar)
Aged about 28 years, Occ: Service, R/o

83, Mahalaxmi Nagar, Manewada
Hudkeshwar, Nagpur.

Ms Alpana Ingolikar h/f Ms Shubhada Phaltankar, Advocate for Applicant/s.
Mr. Anup Badar, Addl.PP for the non-applicant/State
Mr. V.B. Bhise, Advocate for the non-applicant No.2

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

DATE : **7th May, 2025**

ORAL JUDGMENT : (Per : Anil S. Kilor, J.)

1. Heard.
2. **Rule.** The Rule is made returnable forthwith. Heard finally by consent of learned counsel for the respective parties.
3. This is an application filed under Section 482 of the CrPC for quashing and setting aside the charge-sheet No.275 of 2023 dated 21.08.2023, filed in a criminal proceeding, arising out of the First Information Report (FIR) No.504 of 2023 dated 20.06.2023, registered with police Station Hudkeshwar, Nagpur, for the offences punishable under Sections 498-A, 323 read with Section 34 of the IPC and Section 4 of the Dowry Prohibition Act, 1961.

4. The prosecution story in brief is that, the non-applicant No.2 lodged a report on 20.08.2023 against the applicants, alleging therein that immediately after her marriage on 28.02.2023, the father of the applicant No.1-husband i.e. the applicant No.3 and the maternal uncle-Sanjay Barapatre, demanded Rs.10 Lakhs and a Honda City Car from the father of the non-applicant No.2. She further alleged that the applicants used to illtreat her physically and mentally. It is stated that the applicant No.1 used to drink liquor every day and under intoxication, he used to abuse and beat her. It is stated that due to said illtreatment and continuous harassment, she left the company of the applicants on 05.03.2023. Thereafter, she approached the Bharosa Cell on 08.03.2023 and when applicant No.1 refused to attend the Bharosa Cell, the FIR in question came to be lodged.

5. The learned counsel for the applicants argues that vague and generalized allegations are being made in the complaint and there are no specific details about the alleged incidents. She submits that the complaint is false and made

with an ulterior motive to harass and pressurize the applicants. She therefore, submits that since the complaint is vexatious and filed with an oblique motive, in view of the principles laid down in the case of *State of Haryana vs. Bhajanlal*¹ this Court may quash the charge-sheet and the criminal proceeding.

6. On the other hand, the learned APP and learned counsel for the non-applicant No.2, strongly oppose the application. The learned counsel for the non-applicant No.2 submits that there is incriminating material against the applicant Nos.1 to 3 about illtreatment and torture. He submits that there are independent witnesses, who support the case of the prosecution against the demand of a Car and Rs.10 Lakhs. He therefore, submit that as from the allegations made in the FIR and the material collected during the investigation, the alleged offence constitutes against the applicants, this Court may not entertain the present application.

7. The learned APP, while opposing the present application, reiterated the submission made by the learned counsel for the applicant No.2 and prays for dismissal of the

¹ AIR 1992 SC 604

present application.

8. In light of the rival submissions, we have perused the charge-sheet and the relevant evidence collected by the Investigating Officer during the investigation. However, before advertng to the same, it would be beneficial to reiterate the law as regards Section 498A of the IPC.

9. The Hon'ble Supreme Court of India, in the case of *Dara Lakshmi Narayana vs The State Of Telangana*², has held thus:

“28. The inclusion of Section 498A of the IPC by way of an amendment was intended to curb cruelty inflicted on a woman by her husband and his family, ensuring swift intervention by the State. However, in recent years, as there have been a notable rise in matrimonial disputes across the country, accompanied by growing discord and tension within the institution of marriage, consequently, there has been a growing tendency to misuse provisions like Section 498A of the IPC as a tool for unleashing personal vendetta against the husband and his family by a wife. Making vague and generalised allegations during matrimonial conflicts, if not scrutinized, will lead to the misuse of legal processes and an encouragement for use of arm twisting tactics by a wife and/or her family. Sometimes, recourse is taken to invoke Section 498A of

2 2024/INSC/953

the IPC against the husband and his family in order to seek compliance with the unreasonable demands of a wife. Consequently, this Court has, time and again, cautioned against prosecuting the husband and his family in the absence of a clear prima facie case against them.

*29 to 30. (***)*

31. Further, this Court in Preeti Gupta vs. State of Jharkhand (2010) 7 SCC 667 held that 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 by the husband's close relatives 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 complainant are required to be scrutinized with great care and circumspection."

10. From the above referred observations of the Hon'ble Supreme Court, it is evident that if the Court is convinced by the fact that the involvement by the complainant of her husband and his close relatives is with an oblique motive then even if the FIR and the chargesheet disclose the commission of a cognizable offence, the Court with a view to doing substantial justice should read in between the lines the oblique motive of

the complainant and take a pragmatic view of the matter.

11. It is further evident that if FIR or the criminal proceedings is sought to be quashed, essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive of wreaking vengeance, then the Court owes a duty to look into the FIR with care and a little more closely.

12. In the teeth of the above referred observations of the Hon'ble Supreme Court of India, let us appreciate the facts of the present case.

13. It is evident from the charge-sheet that the non-applicant No.2 stayed with the applicants hardly for a week. As per the report, a demand of a Car and Rs.10 Lakhs was made by the applicant No.3 after the marriage. The complainant further states that while such demand was made, except the father of the complainant, no one was there and it was made by the applicant No.3 along with the maternal uncle of the applicant No.1.

14. However, the so called independent witnesses, on

which the learned counsel for the non-applicant No.2 has heavily relied upon, are Amit Rajkumar Patel and Maroti Govindrao Mowadikar. Their statements are contrary to a story put up by the complainant. As per the version of these witnesses, the demand was made prior to the marriage. The witness states in his statement that while making an arrangement before the marriage, he saw the father of the non-applicant No.2 in mental tension and therefore, he made an enquiry with him; thereupon, the father of the non-applicant No.2 told him that a demand is made by the applicant No.3 and the maternal uncle of the applicant No.1.

15. The witness further states that after the marriage, when he was talking with relatives of the complainant i.e. Arvind Sakhare and one Mohadikar, and the father of the complainant, the applicant No.3 demanded Rs.10 Lakhs and a Honda City Car.

16. There is no mention in the statements of these witnesses about the presence of the maternal uncle of the applicant No.1, who, according to the complainant, was present

along with the applicant No.3 while demand was made to the father of the non-applicant No.2.

17. As we have observed that in the complaint, according to the complainant when the demand of a car and money was made to her father, no other person was present; whereas, as per the witness Amit, some relatives of the complainant were present.

18. Furthermore, there is no mention in the complaint about the demand prior to the marriage, as has been alleged in the statement of the witness Amit. Similar is the case about another witness Maroti Mohadikar.

19. In the circumstances, considering a growing tendency of dragging family members of the husband in criminal matters, to pressurize or torture them, the Hon'ble Supreme Court of India, time and again, expressed a concern and observed in catena of judgments that, the Court should be careful or cautious while taking into consideration allegations made in the complaint.

20. From the allegations, it appears that the complaint is

vexatious. However, it is to be noted that a care has been taken to mention dates and details about the incidents, but not specific. Therefore, a mere reference to the names of the 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, as observed by the Hon'ble Supreme Court of India in the case of *Dara Lakshmi Narayana* (Supra).

21. In the circumstances, in view of the above referred observations, it is not safe to rely upon the witnesses Amit and Maroti.

22. There is one more reason for not relying upon the said statements that is before the Bharosa Cell on 03.04.2023, when the non-applicant No.2 appeared, her complaint was against the applicant No.1 only. It was her complaint that the applicant No.1 used to continuously drink, smoke and behave improperly with her.

23. Thus, it is evident that before the Bharosa Cell, on 03.04.2023, it was not the complaint of the non-applicant

No.2 that there was demand of Rs.10 Lakhs and a car.

24. The learned counsel for the non-applicant No.2 tries to impress upon this Court about such demand, by relying upon the statements of the independent witnesses, but it is evident that till 03.04.2023, there were no such allegations or no such complaint of the complainant; however, first time, it was stated in the criminal complaint made to the police on 20.06.2023.

25. Thus, we have no hesitation to hold that the applicant Nos. 2 to 4 have been unnecessarily dragged into the criminal case by the non-applicant No.2 for an oblique motive.

26. As far as the applicant No.1 is concerned, there are specific allegations in the complaint as well as before the Bharosa Cell; moreover, he did not attend the Bharosa Cell and failed to point out, how the complaint is false or baseless against him.

27. In that view of the matter, we are not inclined to entertain the application against applicant No.1.

28. As far as the applicant Nos.2 to 4 are concerned,

considering the allegations, if the trial Court is permitted to continue, it would be an abuse of process of law and therefore, we are of the considered view that this is a fit case for quashing and setting aside the charge-sheet along with the criminal proceeding against the applicant Nos.2 to 4 only. Accordingly, we pass following order:

(i) The application is **allowed** qua the applicant Nos.2 to 4.

(ii) The application is **rejected** qua the applicant No.1-husband.

(iii) The the charge-sheet No.275 of 2023 dated 21.08.2023, filed in the criminal proceeding, arising out of the First Information Report (FIR) No.504 of 2023 dated 20.06.2023, registered with Police Station Hudkeshwar, Nagpur, for the offences punishable under Sections 498-A, 323 read with Section 34 of the IPC and Section 4 of the Dowry Prohibition Act, 1961, is hereby quashed and set

aside, against the applicant Nos.2 to 4 only.

Rule accordingly.

(PRAVIN S. PATIL, J.)

(ANIL S. KILOR, J.)