



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

CRIMINAL APPLICATION (APL) NO. 82 OF 2024

Shrikrishna s/o Sukhdev Kharde
Aged about 36 years, Occ. Service,
R/o Flat No 603, Block No- 6,
BDA Apartment, Kengeri Bangalore. **APPLICANT**

Versus

1. State of Maharashtra,
Thr. PSO Deulgaon Raja,
District Buldhana.
2. Mrs. Deepali w/o Shrikrishna Kharde
Age 30 years, Occ. - Business,
R/o Bhagwan Baba Colony, Tahsil-
Deulgaon Raja, District-Buldhana. **NON-APPLICANTS**

WITH

CRIMINAL APPLICATION (APL) NO. 263 OF 2023

1. Sukhdeo s/o Sakharam Kharde,
Aged about 65 years, Occ. - Retired,
2. Chandrabhaga w/o Sukhdeo Kharde,
Aged about 55 years, Occ. - Nil,
Both R/o. Bhagwan Baba Colony,
Deoulgaon Raja, Tah. Deoulgaon
Raja, District - Buldhana.
3. Sandeepkumar s/o Sukhdeorao
Kharde,

Aged about 38 years, Occ.-Teacher,
R/o. C/o. Subhash s/o Bajirao
Chitanwar, Hanuman Nagar,
Takiya Ward, Bhandara, Tah. and
District Bhandara.

APPLICANTS

Versus

1. State of Maharashtra,
Thr. Police Station Officer, Police
Station Deoulgaon Raja, Tah.
Deoulgaon Raja, District-Buldhana.

2. Dipali w/o Shrikrushna Kharde,
Aged about 30 years, Occ. - Medical
Practitioner,
R/o Bhagwan Baba Colony,
Deoulgaon Raja, Tah. Deoulgaon
Raja, District-Buldhana.

NON-APPLICANTS

Mr. A.M. Jaltare, Advocate for the Applicant in APL
No.82/2024.

Mr. A.M. Tirukh, Advocate for the Applicant in APL
No.263/2023.

Ms. Sneha Dhote, APP for the Non-Applicant No.1/State.

Mr. R.N. Ghuge, Advocate for the Non-Applicant No.2.

CORAM

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

RESERVED ON : 23rd SEPTEMBER, 2025.

PRONOUNCED ON : 26th SEPTEMBER 2025.

ORAL JUDGMENT :- (PER : URMILA JOSHI PHALKE, J.)

1. Heard.
2. **Rule.** Rule made returnable forthwith. Heard finally by the consent of learned Counsel for the respective parties.
3. The Applicants have approached this Court under Section 482 of the Code of Criminal Procedure/528 of Bharatiyyhha Nagarik Suraksha Sanhita (BNSS), 2023 with a prayer to quash and set aside the First Information Report in connection with Crime No. 459/2022 registered at Deoulgaon Raja Police Station under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.
4. The Applicant in Criminal Application (APL) No. 82/2024 is the husband, whereas the Applicants in Criminal Application (APL) No. 263/2023 are the in-laws and brother-in-law of the Informant. The crime is registered on the basis of a report lodged by Deepali Shrikrishna Kharde on an allegation that on 11.02.2017 her marriage was preformed with the Applicant Shrikrishna. Her parents have incurred the expenses of the said marriage. After marriage she resumed the cohabitation at the house of the present Applicants and for

initial two months she was treated well. Her husband was serving in Bank and posted at Bangalore at the relevant time. It is alleged by her that her husband and in-laws demanded from her Rs. 20 Lakhs for starting the showroom, as she could not perform the demand, she was illtreated by the present Applicants. She further alleged that, though she has delivered a child, none from the matrimonial home came to visit her. Though she insisted her husband to take her at Bangalore but he asked her to reside at her parents house. On 29.11.2022, the Applicants brought the stamp of Rs. 100/- and insisted her to sign on the divorce deed and assaulted her. She specifically alleged that, her husband Shrikrishna has assaulted her by fist and kicks blows and Applicant No.3 in Criminal Application (APL) No. 263/2023 abused her in a filthy language. At the relevant time her mother came there and rescued her from the clutches of the Applicants and took alongwith her. On the basis of the said report, Police have registered the crime against the Applicants.

5. Mr. Jaltare, learned Counsel for the Applicant in Criminal Application (APL) No.82/2024 submitted that, the

entire allegation levelled against the Applicant/husband is false and baseless. In fact, the Applicant/husband issued a notice prior to lodging of the report asking her to resume the cohabitation. She neither resumed the cohabitation nor replied the notice.

6. He invited our attention towards the document which is issued by the Manager of Canara Bank Head Office, Bengaluru informing that the Applicant Shrikrishna has attended the duties from 28.11.2022 to 30.11.2022 at Bengaluru. He submitted that, this fact itself sufficient to show that on 29.11.2022 the Applicant Shrikrishna was not at his native Deoulgaon Raja, District Buldhana. He submitted that, as far as the rest of the allegations are concerned, which are general and omnibus allegations. It was the Non-Applicant No. 2 who is not desiring to resume the cohabitation and only to give the counter blast to the notice issued by the Applicant Shrikrishna, the false FIR is lodged. The falsity of the allegation reveals from the communication issued by the Branch Manager of Canara Bank to the Applicant Shrikrishna on 23.08.2023 showing his presence at Bengaluru. He submitted that, the

recitals of the FIR and the documents filed on record sufficiently shows that with the baseless allegations the crime is registered.

7. Mr. Tirukh, learned Counsel for the Applicants in Criminal Application (APL) No. 263/2023, also reiterated the said contentions and submitted that, with the baseless and false allegations the FIR is lodged. He placed on record the Certificate issued by the Naib Tahsildar, Lakhandur dated 12.01.2023 showing the presence of Applicant No.3 in Criminal Application (APL) No. 263/2023 namely Sandeepkumar s/o Sukhdeorao Kharde at Lakhandur, District Bhandara which is more than 400 Km. from Deulgaon Raja where the alleged incident according to the Victim occurred on 29.11.2022. This Certificate shows that on 29.11.2022 the Applicant No.3 was on Election duty.

8. He further invited our attention towards the prescription of the Eye Hospital and submitted that, the Applicant No.1 was having an appointment with the Ophthalmologist for examining his eye sight. So the presence of the Applicant No.1 on 29.11.2022 at home according to the Informant that she was assaulted by the Applicants, is false. Thus, entire base of the allegation is false by concocting the

story. He submitted that, as far as the Applicant No.2 is concerned, who is 70 year lady suffering from Arthritis and unable to stand on her legs. Therefore, assault on her part is improbable and unacceptable.

9. He submitted that, the allegations levelled in the FIR, on the basis of the documents appears to be false and baseless only to implicate all the Applicants in the crime, as no *prima facie* case is made out against the Applicants, the Applications deserve to be allowed.

10. Learned APP and learned Counsel for the Informant, strongly opposed the said Applications and submitted that, Jalna is not a place from which the Applicant No.1 in Criminal Application (APL) No.263/2023 cannot return. He submitted that, after marriage the Informant was neglected, abused and illtreated by the present Applicants. Whether the allegations are true or not cannot be entered into at this stage. Considering the statement of the Informant *prima facie* case is made out and hence the Applications deserve to be rejected.

11. After hearing both the sides and on perusal of the

recitals of the FIR and the documents filed on record, it is not disputed that the Shrikrishna/husband is serving in Canara Bank and at the relevant time was posted at Bengaluru. Even the recitals of the FIR shows that, he was serving at Bengaluru. The communication issued by the Manager, Head Office, Bengaluru dated 23.08.2023 discloses that from 28.11.2022 to 30.11.2022 he has attended the duty at Bengaluru. The Applicant No.3 in Criminal Application (APL) No.263/2023 was also on election duty on 29.11.2022 as per the Certificate given by the Naib Tahsildar, Lakhandur dated 12.01.2023. The distance between the Lakhandur which is in District Bhandara is more than 400 k.m., from the matrimonial house of the Informant.

12. The documents filed on record by the Applicants further shows that the Applicant No.1 father-in-law was not present on 29.11.2022 at house, as he had an appointment with the Ophthalmologist at Jalna which is 60 k.m., away from the matrimonial house of the Informant. The allegation levelled against the Applicants by the Informant is that, on 29.11.2022 she was assaulted by all the Applicants, which apparently

appears to be false and baseless in the light of the above said documents.

13. At this stage, reference can be given to Section 498-A of IPC, which reads as under:

“498A. 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.”

14. A careful scrutiny of the charge-sheet shows that, the omnibus allegations are levelled against the Applicants which *prima facie* appears to be false one.

15. At this stage, it would be relevant to reproduce the observation made by the Hon’ble Apex Court in the case of *Preeti Gupta and another Vs. State of Jharkhand, reported in (2010) 7 SCC 667*, wherein it is held that the allegations of harassment by the husband’s close relations who had been living in different cities and never visited or rarely visited the place where the complainant wife resided would have an entirely different complexion. Such allegations of the complainant are required to be scrutinized with great care and

circumspection.

16. The another observation of the Hon'ble Apex Court in the case of *Kahkashan Kausar alias Sonam and others Vs. State of Bihar and others, reported in (2022) 6 SCC 599*, wherein it is held that it must be borne in mind that although the two F.I.Rs. may constitute two independent instances, the present complaint fails to establish specific allegations against the in-laws. Allowing prosecution in the absence of clear allegations against the appellant's in-laws would simply result in an abuse of the process of law.

17. The Hon'ble Apex Court in the case of *Sushil Kumar Sharma Vs. Union of India & Ors., reported in (2005) 6 SCC 281*, observed as under:

“19. The object of the provision is prevention of the dowry menace. But as has been rightly contended by the petitioner many instances have come to light where the complaints are not bona fide and have been filed with oblique motive. In such cases acquittal of the accused does not in all cases wipe out the ignominy suffered during and prior to trial. Sometimes adverse media coverage adds to the misery. The question, therefore, is what remedial measures can be taken to prevent abuse of the well-intentioned provision. Merely because the provision is constitutional and intra vires, does not give a licence to unscrupulous persons to wreck personal vendetta or unleash harassment. It may, therefore, become necessary for the legislature to find out ways how the makers of

frivolous complaints or allegations can be appropriately dealt with. Till then the Courts have to take care of the situation within the existing frame work. As noted above the object is to strike at the roots of dowry menace. But by misuse of the provision a new legal terrorism can be unleashed. The provision is intended to be used a shield and not assassins' weapon. If the cry of "wolf" is made too often as a prank assistance and protection may not be available when the actual "wolf" appears. There is no question of the investigating agency and Courts casually dealing with the allegations. They cannot follow any strait jacket formula in the matters relating to dowry tortures, deaths and cruelty. It cannot be lost sight of that the ultimate objective of every legal system is to arrive at truth, punish the guilty and protect the innocent. There is no scope for any preconceived notion or view. It is strenuously argued by the petitioner that the investigating agencies and the courts start with the presumption that the accused persons are guilty and that the complainant is speaking the truth. This is too wide available and generalized statement. Certain statutory presumptions are drawn which again are reputable. It is to be noted that the role of the investigating agencies and the courts is that of watch dog and not of a bloodhound. It should be their effort to see that an innocent person is not made to suffer on account of unfounded, baseless and malicious allegations. It is equally undisputable that in many cases no direct evidence is available and the courts have to act on circumstantial evidence. While dealing with such cases, the law laid down relating to circumstantial evidence has to be kept in view."

18. Keeping in mind the aforesaid observations and considering the allegations which apparently appears to be false and baseless, we find that, this is a fit case to exercise our jurisdiction under Section 482 of the Code of Criminal Procedure/528 of Bharatiyhha Nagarik Suraksha Sanhita (BNSS), 2023 and quash and set aside the proceedings against

all the Applicants since the contents of the FIR and charge-sheet appears to be on the basis of baseless allegations. In view of that, we inclined to exercise our jurisdiction and pass the following order.

ORDER

- i. The Criminal Application (APL) Nos.82/2024 & 263/2023 are **allowed**.
- ii. The First Information Report in connection with Crime No.459/2022 registered at Deoulgaon Raja Police Station, District Buldhana under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code, is hereby quashed and set aside against the Applicants.

19. Rule is made absolute in the above terms. No costs.

20. Pending application/s, if any, shall stand disposed of accordingly.

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