



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

CRIMINAL APPLICATION (APL) NO. 161 OF 2024

1. **Viraj Damodhar Dongare,**
Aged : 33 Yrs., Occu. : Service,
2. **Chandrakala Damodhar Dongare,**
Aged: 61 years, Occu:- Household,

Both R/o Hasara Toli, Tumsar,
Tah. Tumsar, District- Bhandara
3. **Smt. Jyotsana James Meshram,**
Aged : 40 years, Occu. : Household,
4. **James Meshram,**
Aged : 44 years, Occu.: Private Service,

Nos.3 and 4 R/o Gittikhadan,
Nagpur, Tq. & Distt. Nagpur

...APPLICANTS

// V E R S U S //

1. **State of Maharashtra,**
Through Police Station Officer,
Police Station Tumsar,
Tah. Tumsar, Distt. Bhandara
2. **Pratiksha w/o Viraj Dongare,**
Aged about 24 years,
Occupation : Private Service,
R/o C/o. Gopewada Road,
Shahapur, Bhandara, Tah. and
District- Bhandara

RESPONDENTS

Ms Aditi Timade, Advocate h/f Mr. H.S. Motwani, Advocate for the applicants.
Mr A.R. Chutke, APP for respondent No. 1/State.

CORAM : ANIL S. KILOR AND PRAVIN S. PATIL, JJ.
DATED : APRIL 25, 2025.

ORAL JUDGMENT : (PER : ANIL S. KILOR, J.)

1. Heard.

2. **RULE.** Rule made returnable forthwith. Taken up for final disposal with the consent of learned counsel for the parties.

3. In the present application, filed under Section 482 of the Code of Criminal Procedure ("Cr.P.C.", for short), the prayer is made for quashing of FIR No. 498 of 2023 dated 27.09.2023 registered with police station Tumsar, District Bhandara for the offences punishable under Sections 498-A, 377 read with Section 34 of the Indian Penal Code (for short 'the IPC').

4. It is the case of the prosecution that respondent No.2 lodged the report against the present applicants alleging that after her marriage on 02.05.2023, she was mentally and physically tortured by the applicants and there was a demand of Rs.5,00,000/- (Rupees Five lacs only) by them. It is further alleged that applicant

No.1 used to mercilessly beat respondent No.2 and she was also threatened for dire consequences if she lodged a complaint to the police. It is further alleged that on one occasion the applicant No.1 tried to commit unnatural sex with respondent No.2. Accordingly, the offence came to be registered against the applicants, which is sought to be quashed and set aside by the present application.

5. Ms Aditi Timade, learned counsel for the applicants, argued that general and vague allegations have been made in the complaint. There are no specific allegations or instances stated in the complaint. She submits that the allegations against the in-laws are of instigating the husband to physically and mentally torture the respondent No.2. She, therefore, submits that the husband and his family members have been unnecessarily roped into the alleged offence to harass and pressurize them. She accordingly prays for quashing of the FIR.

6. Mr Amit Chutke, learned APP for respondent No.1, on the other hand, strongly opposed the application. He points out that there are allegations which constitute the offence. Therefore,

he submits that as the allegations made in the report constitute the offence as alleged, this is not a case for quashing of the FIR. He accordingly prays for dismissal of the present application.

7. We have perused the FIR and its contents in the light of the rival submissions.

8. At the outset, it is to be noted that there is no allegation which would attract Section 377 of the IPC. The allegation which is made against the husband is that he tried to commit unnatural sex with the respondent No.2. Explanation to Section 377 makes it clear that penetration is must, which is not alleged. The allegations are of an attempt to commit unnatural sex by the applicant. In that view of the matter, we are of the opinion that no offence constitutes under Section 377 of the IPC against any of the applicants.

9. Furthermore, the allegations as regards the torture and harassment of the respondent No.2 are concerned, except for the allegation against applicant No.1, the allegations against applicant Nos. 2 to 4 are vague and general. The allegations against the

applicant Nos. 2 to 4 are mainly of instigating the applicant No.1 to torture respondent No.2.

10. The Hon'ble Supreme Court of India in the case of *Dara Lakshmi Narayana & Others .v/s. State of Telangana & Another*¹ has observed thus:

“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.”

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11. On perusal of the report, it is thus evident that there is a mere reference of the names of applicant Nos. 2 to 4, who are the family members of applicant No.1. It is apparent on the face of the record that the complaint came to be lodged out of a matrimonial dispute and it appears that the applicant Nos. 2 to 4 are made accused in the said complaint out of the tendency to implicate all the members of husband's family when domestic disputes arise out of matrimonial discord.

12. In the circumstances, such generalized and sweeping accusations or particularised allegations unsupported by concrete evidence cannot be form the basis of criminal prosecution. Thus, we are of the opinion that no offence constitutes against applicant Nos. 2 to 4 under Section 498-A of the IPC.

13. However, since there are allegations against applicant No.1 and it prima facie constitutes the offence under Section 498-A of the IPC, we are not inclined to entertain this application at the

behest of applicant No.1 for quashing of FIR under Section 498-A of the IPC. Accordingly, we pass the following order:

- i. The criminal application is partly allowed.
- ii. The FIR bearing No. 498 of 2023 is hereby quashed and set aside to the extent of Section 377 of the IPC against all the applicants.
- iii. The FIR bearing No. 498 of 2023 is hereby quashed and set aside to the extent of Sections 498-A and 34 of the IPC as against applicant Nos. 2 to 4.
- iv. The application against applicant No.1 is rejected to the extent, the offence registered under Section 498-A of the IPC.

Rule accordingly.

Pending application, if any, also stands disposed of.

[PRAVIN S. PATIL, J]

[ANIL S. KILOR, J.]