



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

CRIMINAL APPLICATION (APL) NO. 39 OF 2025

1. **Yusuf Khan Subhan Khan Pathan**
Aged about 49 years,
Occupation : Teacher,
R/o: Near Tulja Bhavani Mandir,
Wadegaon, Tq. Balapur and
District Akola
2. **Sheikh Mahboob Sheikh Babbu**
Aged about: 47 years,
Occ. Business
3. **Sheikh Babbu Sheikh Rahim**
Aged about 82 years,
Occ. Business
Both applicant Nos.2 and 3 are
residents Ward No.6, Pulgaon,
Wardha 442302

// V E R S U S //

1. **The State of Maharashtra,**
Through Police Station Mukutban,
District: Yavatmal
2. **Rukhsar Sheikh Akhtar,**
Aged about 28 years,
Occupation :Household,
R/o. Mukutban, Zari
District Yavatmal

NON-APPLICANTS

Mr S.S. Sohoni, Advocate for the applicants.
Mr N.B. Jawade, APP for non-applicant No. 1/State.
Mr. P.N. Atkar, Advocate for non-applicant No.2.

CORAM : URMILA JOSHI PHALKE, J. AND
NANDESH S. DESHPANDE, JJ.
DATED : 18.09.2025

O R A L J U D G M E N T : (PER : URMILA JOSHI PHALKE, J.)

1. Heard.

2. **RULE.** Rule made returnable forthwith. Taken up for final disposal with the consent of 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.385/2024 registered under Sections 85, 115(2), 352, 351(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for short, 'BNS') and under Section 3, 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019 and Section 3 of the Dowry Prohibition Act, 1961.

4. As per the contentions of the applicants, applicant No.1 is a friend of father in law of the informant. Applicant No.2 is husband of sister-in-law of the informant and applicant No.3- father-in-law of the applicant No.2. The allegation levelled against

the present applicants is that, being family members and in a family relationship with other co-accused, they ill-treated the informant and therefore, she was constrained to leave the matrimonial house. It is alleged by her that her in-laws and husband ill treated her by demanding the unlawful demands and therefore, they assaulting and beating her. On the basis of said report, police have registered the crime against the present applicants.

5. Heard learned counsel for the applicants who submitted that as far as applicant No.1 is concerned, he is not covered under the definition of relative of the husband. As far as applicant No.2 and 3, they are not residents of Akola. They are resident of District Wardha. Entire recitals of the First Information Report nowhere reveals any specific allegations against them. General allegations are levelled against them. Merely because they are having relations either family relations or the relatives in the nature of family members, and therefore, they are implicated in the alleged offence. He submitted that now the issue is well settled that it becomes a tendency to implicate everybody when a crime is

registered as far as offence under Section 498-A of the I.P.C. is concerned or a matrimonial offence is concerned. He submitted that the only allegation is that they were present when the meeting was held for the settlement. Except for this allegation there are no other allegations as far as ill- treatment is concerned. In view of that the FIR be quashed and set aside against the present applicants.

6. Learned APP for the State and learned counsel for non-applicant No.2 strongly opposed for the same and submitted that considering the fact that the informant was subjected for the ill-treatment at the hands of the other co-accused on the instigation of the present applicants and they were present in the meeting wherein the informant was humiliated and therefore the application deserves to be rejected as a *prima-facie* case is made out.

7. On hearing both sides and perusal of the recitals of the First Information Report and the other investigation papers, admittedly applicant Nos.2 and 3 are not the family members and

are not residing with the husband of the informant. They are distant relatives of the husband of the informant. As far as the applicant No.1 is concerned, he is a friend of the father in law of the informant. So he is not covered under the definition of relative of husband. Thus, it is apparent that they are implicated merely because applicant No.1 is the friend of father in law and other two applicants are the distant relatives. At this stage reference can be given to the decision of the Hon'ble Apex Court in the case of ***Preeti Gupta & Another vs State Of Jharkhand & Another*** reported in ***(2010) 7 SCC 667*** wherein Apex Court observed in paragraph Nos.30, 32 and 34 as under:-

“30. It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the courts in our country including this Court are flooded with matrimonial cases. This clearly demonstrates discontent and unrest in the family life of a large number of people of the society.

32. It is a matter of common experience that most of these complaints under Section 498-A IPC are filed in the heat of moment over trivial issues without proper deliberations. We came 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 is also a matter of serious concern.

34. *Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualised by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relatives.*

In another case of ***Kahkashan Kausar @ Sonamand ors. vs The State Of Bihar and ors.*** reported in ***2022 (6) SCC 599*** wherein also the Supreme Court after taking stock of various decisions rendered by the Supreme Court in the subject matter observed in paragraph No.17 as under:-

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

8. Recently the Hon'ble Apex Court in the case of *Mangeram Vs. State of Madhya Pradesh* reported in *Manu/SC/1066/2025* also observed that Family members of the husband ought not to be unnecessarily roped into criminal proceeding 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. It was further held that where the allegations are bereft of specific particulars, and particularly where the relatives, sought to be prosecuted are residing separately or have had no connection with the matrimonial home, allowing the prosecution to proceed would amount to an abuse of the process of law. The Court noted that criminal law is not to be deployed as an instrument of harassment, and that judicial scrutiny must be exercised to guard against such misuse.

9. In the light of the principles laid down by the Hon'ble Apex Court and applying the same to the facts of the present case, admittedly general allegations are levelled against present applicants. No specific allegations are narrated in the FIR. In view of that the applicants are made out a case for quashing of the FIR as well as charge-sheet.

10. In view of that we proceed to pass following the order:-

ORDER

(i) The Criminal Application is allowed.

(ii) The FIR in connection with Crime No.385/2024 and charge-sheet No.06/2025 registered with Police Station Mukutban District Yavatmal for the offences punishable under Sections 85, 115(2), 352, 351(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 and under Sections 3 and 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019 and Section 3 of the Dowry Prohibition Act, 1961 are hereby quashed and set aside against the present applicants namely applicant No.1-Yusuf Khan Subhan Khan Pathan, applicant No.2-Sheikh Mahboob Sheikh Babbu and applicant No.3-Sheikh Babbu Sheikh Rahim.

11. The criminal application stands disposed of in the above said terms.

Rule accordingly.

Pending application, if any, also stands disposed of.

[NANDESH S. DESHPANDE, J] [URMILA JOSHI PHALKE, J.)

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