



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

CRIMINAL APPLICATION (APL) NO. 167 OF 2025

1. **Baba s/o Hanif Sheikh (Husband)**
Aged about 41 years,
Occupation : Police Service
2. **Tahera Begum w/o Hanif Sheikh**
(Mother-in-law)
Aged about 64 years,
occupation : Nil
3. **Sheikh Salman s/o Hanif Sheikh**
(Brother-in-law)
Aged : 37 years, occupation: Service

All of the above applicants are R/o.
Near CID office, 2/5-1, PCMT
Quarter, Police Line Takli, Katol
Road, Nagpur.

4. **Nurani Begaum w/o Javed Khan**
(Sister-in-law) Aged about 38 years,
occupation : Housewife,
R/o. Plot No.22, Flat No.201,
Amrut Nagar Society, Shri Nath
Apartment, Surat City, District –
Surat
(GUJRAT)
5. **Kiran Chaandkha Pathan**
(Police Constable) Aged 41 years,
Occupation : Police Service,
Behind Police Quarters, Plot No.
256, Raghuji Nagar, Hanuman
Nagar, Nagpur

...APPLICANTS

// V E R S U S //

1. **The State of Maharashtra,**

Through its PSO of Police Station
Barshi Takli, Akola
District – Akola

2. **Sadaf Ali w/o Baba Hanif Sheikh**

Aged about 33 years,
Occupation : Housewife,
R/o. C/o. Jahangir Khan Munaf
Khan, Barshi Takli, Akola,
District - Akola

NON-APPLICANTS

Mr Y. J. Sheikh Advocate for the applicants.
Mr Nikhil Joshi, APP for non-applicant No. 1/State.
Mr M.R. Deshpande, Advocate for non-applicant No.2.

CORAM : URMILA JOSHI PHALKE, J. AND

NANDESH S. DESHPANDE, JJ.

DATED : 08.09.2025

ORAL JUDGMENT : (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 applicants who are husband, mother-in-law, brother-in-law, sister-in-law have approached to this Court under Section 482 of the Code of Criminal Procedure Code and Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, with a

prayer to quash and set aside the First Information Report bearing No.588/2024 dated registered with Police Station Barshi Takli, District Akola for the offences punishable under Sections 85, 115(2), 352, 351(2) read with Section 3(5) of Bharatiya Nyaya Sanhita, 2023.

4. The brief facts which are necessary for the disposal of the application as under:-

 The First Information Report is lodged by non-applicant No.2/informant, who is wife of the applicant No.1 on an allegation that her marriage was performed with applicant No.1 on 26.05.2011 and other applicants are nearest relatives of her husband. Applicant No.5 is second wife of applicant No.1. It was alleged that during the said marriage non-applicant No.2 had incurred a lot of expenses in the marriage. After marriage she resumed the cohabitation but she was constantly ill-treated physically as well as mentally by the applicant No.1. It is further alleged that applicant No.1 informed her that he had married her only because of his relatives had asked to do so otherwise he could have married with better girl than the present non-applicant

No.2. It is further stated that in the report which indicates that whenever the informant got pregnant applicant No.1 used to give her some medicines due to which there was miscarriage. She was abused in an abusive manner by the present applicants. There was demand of money for purchasing a car and towards the said demand her father had already paid Rs.1 lakh to the applicants. However, there was further demand of Rs.5 lakh for repaying the loan as well as for purchasing the car and therefore, she constrained to leave the matrimonial house and approached to the police station. On the basis of the said report police have registered the crime.

5. After registration of crime the applicants approached to this Court for quashing of the FIR on the ground that the marriage was performed in the year 2011 i.e. on 26.05.2011 and thereafter she resumed cohabitation and she stayed along with applicant No.1 till lodging of the report i.e. till 21.12.2024. There was no previous complaint as far as the ill-treatment is concerned. Only with the false and frivolous allegations this report is lodged by implicating all the family members. No specific instances are

narrated in the said FIR and only on omnibus allegations the applicants are implicated in the alleged offence.

6. Heard learned counsel for the applicants who reiterated the said contentions and submitted that considering the nature of the allegations even prima-facie case is not made out. Therefore, the application deserves to be allowed. He also submitted that it was applicant No.1 who has issued the notice to the informant to resume the cohabitation but she has not resumed the cohabitation and this false report is lodged. He submitted that subsequent to the FIR another crime No.115/2025 under Section 3 and 4 of the Muslim Women Protection of Marriage Act, 2019 was registered. He submitted that even considering the allegations there is improvement as far the allegations regarding the demand of money for purchasing the plot is concerned and the rest of the allegations are also in general in nature. Applicant No.3 brother in law is residing separately at Nagpur. Applicant No.4 (sister in law) is residing at Surat and applicant No.5 is also residing separately. There is no reason for them to stay together with applicant No.1 and ill-treated the informant. Thus, with the omnibus statement all

applicants are implicated in the alleged offence. In view of that also the application deserves to be allowed.

7. Per contra learned APP strongly opposed for the same and submitted that as far as the applicant No.1 is concerned there is specific allegations to the ill-treatment for demanding the demand of Rs.5 lakh for purchasing the car and the plot. There was harassment at the hands of the present applicants. Whether it is sufficient to result into conviction or not is a matter of evidence. At this stage, prima facie there is sufficient material to implicate the present applicants and therefore, application deserves to be rejected.

8. Learned counsel for the informant reiterated the said contentions and submitted that considering the involvement of the applicant No.1-husband who is police constable due to his pressure the complaint was not properly investigated by the investigating agency. He submitted that he has misused his position and ill-treated the informant for illegal demands. The subsequent complaint lodged by the informant also shows there is specific

allegation levelled against the present applicants and therefore, application deserves to be rejected.

9. On hearing both the sides and on perusal of the application the entire allegation was around the fact that informant who is legally wedded wife of applicant No.1, who was subjected to ill-treatment at the hands of present applicants who are the husband and nearest relatives and thereby committed an offence.

10. At this stage reference can be made to Section 498-A of the Indian Penal Code (for short, 'I.P.C.') which read as under:

498-A. 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.

Explanation.—For the purpose of this section, “cruelty” means—

(a) any wilful 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; or

(b) harassment of the woman where 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.”

11. A careful scrutiny of both the FIRs show that the allegation is that the applicants have abused and ill-treated the informant by making unlawful demands. The recitals of the FIR are taken into considerations. In both the FIRs the omnibus allegations are levelled as far as the ill-treatment and demand of Rs.5 Lakh is concerned.

12. At this stage reference can be given to observations made by 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.

13. In another case of ***Kahkashan Kausar @ Sonamand ors. vs The State Of Bihar and ors.*** reported in ***2022 (6) SCC 599*** 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.”

14. In recent judgment ***Mangeram Vs. State of Madhya Pradesh*** reported in ***Manu/SC/1066/2025*** observed

that Section 498-A of the IPC prescribes punishment where a woman is subjected to cruelty by her husband or his relatives. The offence is punishable with imprisonment for a term which may extend to three years and also provides for fine. The Explanation appended to the provision defines "cruelty" in two parts. Clause (a) refers to wilful 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 her life, limb or health, whether mental or physical. Clause (b) expands the scope of the term to include harassment with a view to coercing the woman or her relatives to meet any unlawful demand for property or valuable security, or on account of failure to meet such demand. It is further held by referring the judgment in case of *Dara Laxmi Narayana Vs. State of Telangana* reported in *Manu/SC/1309/2024* 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.

15. Thus, the object of the provision is prevention of the dowry meance. But as has been rightly contended by the applicants many instances have come to light where the complaints are not bonafide and have 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 observed by the Hon'ble Apex Court in the case of ***Sushilkumar Sharma Vs. Union of India and others***, reported in ***(2005) 6 SCC 281***.

16. Keeping in mind the aforesaid observations we find that this is a fit case to exercise our jurisdiction under Section 482 of the Criminal Procedure Code, 1923 and Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and quash and set aside the proceedings against all the applicants since the contents of the FIR shows that omnibus

allegations are levelled against all the applicants and therefore the application deserves to be allowed.

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

ORDER

(i) The Criminal Application is allowed.

(ii) The FIR No.588/2024 registered with Police Station Barshi Takli, District Akola for the offences punishable under Sections 85, 115(2), 352, 351(2) read with Section 3(5) of Bharatiya Nyaya Sanhita, 2023 is hereby quashed and set aside against the applicants.

18. The criminal application stands disposed.

Rule accordingly.

Pending application, if any, also stands disposed of.

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