



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

CRIMINAL APPLICATION (APL) NO. 1431 OF 2025

1. Baba S/o Hanif Sheikh (Husband)
Aged about 41 Yrs, Occ:Police Service
2. Tahera Begum W/o Hanif Sheikh
(Mother-in-law),
Aged about 64 Yrs, Occ: Nil
3. Sheikh Salman S/o Hanif Sheikh
(Brother in Law)
Aged : 37 Yrs, Occ: Service.

All 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 Yrs, Occ: House Wife,
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 Yrs, Occ: Police Service
Behind Police Quarters, Plot No. 256,
Raghuji Nagar, Hanuman Nagar,
Nagpur.

APPLICANTS

Versus

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 Yrs, Occ: Housewife,
R/o C/o. Jahangir Khan Munaf Khan,
Barshi Takli, Akola, District: Akola.

**NON-
APPLICANTS**

Mr. Y.J. Sheikh, Advocate a/w Ms. Gulabshah Ansari, Advocate
for the Applicants.

Mr. A.G. Mate, APP for the Non-applicant No.1/State.

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

DATED : 8th DECEMBER, 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 present Applicants who are the husband,
mother-in-law, brother-in-law and sister-in-law have approached

this Court under Section 528 of the Bhartiya Nagrik Suraksha Sanhita (BNSS) 2023 for quashing of the First Information Report in connection with Crime No.115/2025 dated 05.04.2025 registered with Police Station Barshi Takli, District Akola under Sections 3 & 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019.

4. The Applicants are arraigned as an accused on the basis of the report lodged by the Non-applicant No.2 on an allegation that her marriage was performed with the Applicant No.1 on 26.05.2011 and other Applicants are the nearest relatives of the Applicant No.1. She alleged that after marriage she resumed the cohabitation but she was illtreated by demanding unlawful demand for purchasing plot and vehicle and she was constrained to leave the matrimonial house. She further alleged that, the present Applicants by telephonic communication declared Talak and since then her health is deteriorating. On the basis of the said report Police have registered the crime against the present Applicants.

5. Heard learned Counsel for the Applicants who submitted that considering the allegations levelled against the

present Applicants which are false and baseless story is narrated by the Informant. He invited our attention towards the order passed by this Court in Criminal Application (APL) No. 167/2025 and submitted that initially also she has filed a complaint under Sections 85, 115(2), 352, 351(2) read with Section 3(5) of Bharatiya Nyaya Sanhita, 2023 alleging that she was subjected to cruelty by the present Applicants.

6. He submitted that, though she has alleged that the present Applicant No.1 has declared Talak, however the record is contrary to that the present Applicant No.1 has filed Petition No.A-399/2025 for calling her for the cohabitation. The said Petition was filed by him on 21.02.2025 i.e. much prior to the lodging of the FIR. He submitted that, previous FIR was also filed by the Non-applicant No.2 alleging the same allegations and this Court has already quashed the FIR. Even considering the allegations as it is regarding the demand of money for purchasing the plot is concerned the nature of the allegation is general in nature. The brother of the Applicant No.1 who is arraigned as an accused is residing separately at Nagpur, the Applicant No.4 is residing at Surat and Applicant No.5 is also

residing separately. There is no reason for them to stay together but merely because they are the relatives of the Applicant No.1 they are implicating in the alleged offence.

7. He submitted that, this Court has already considered the Application of the present Applicants in earlier FIR that the allegations levelled are baseless. The filing of the Petition by the Applicant No.1 against the Non-applicant No.2 for seeking a direction from the Family Court to resume the cohabitation, speaks for itself that the present Applicant No.1 was dealing to cohabit with her but it was the Non-applicant No.2 who has left the matrimonial house. Even accepting the allegations as it is which are not sufficiently to attract either the offence punishable under Sections 3 or 4 of the Muslim Women (Protection of Rights on Divorce) Act, 1986. He invited our attention towards the concerned Sections and submitted that even considering the allegations as it is, the offence under Sections 3 and 4 are not made out.

8. Section 3 deals with Mahr or other properties of Muslim woman to be given to her at the time of divorce, whereas Section 4 deals with order for payment of

maintenance. He submitted that the Applicant No.1 himself is ready to maintain her and as no divorce is there, therefore the applicability of Section 3 does not arise. In view of that, he prays for quashing of the FIR.

9. *Per contra*, learned APP strongly opposed for the same and submitted that considering the allegations levelled against the present Applicants *prima facie* case is made out. At this stage, there is no reason to disbelieve the statement of the Informant whether it would 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, the Application deserves to be rejected.

10. Despite the service of notice Non-applicant No.2 fails to appear.

11. On hearing both the sides and on perusal of the investigation papers it reveals that initially also on the basis of the report lodged by the Non-applicant No.2 the other crime No.588/2024 was registered on an allegation that the present Applicants have illtreated her for demand of money for

purchasing plot. Now, there is an addition that she was illtreated by demanding money for purchasing vehicle also.

12. Learned Counsel for the Applicants, invited our attention towards the Petition filed by the Applicant No.1 which was much prior to the lodging of the FIR. It is apparent that, the subsequent FIR came to be lodged to give a counterblast to the said Petition. Even accepting the allegations as it is it reveals that general and vague allegations are levelled against them and no specific instances are narrated by the Informant in the FIR.

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.

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.”

14. 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 FIRs are taken into consideration. In both the FIRs omnibus allegations are levelled as far as the ill-treatment and demand are concerned.

15. 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”

16. 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.”

17. 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.

18. Thus, the object of the provision is prevention of the dowry menace. 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*.

19. Keeping in mind the aforesaid observations we find that this is also a fit case to exercise our jurisdiction under Section 528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS),

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. Accordingly, we proceed to pass the following order.

ORDER

i. Criminal Application is **allowed**.

ii The First Information Report in connection with Crime No.115/2025 registered with Police Station Barshi Takli, District Akola under Sections 3 & 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019, is hereby quashed and set aside to the extent of present Applicants.

20. Rule is made absolute in the above terms.

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

(NANDESH S. DESHPANDE, J.)

(URMILA JOSHI PHALKE, J.)