



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1708 OF 2024

1. JITENDRA S/O DIPAK SHINDE
2. VRUSHALI W/O. JITENDRA SHINDE

VERSUS

1. THE STATE OF MAHARASHTRA
2. POONAM W/O. GAURAV SHINDE

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Advocate for Petitioners : Mr. Malte Uday Shrikant
APP for Respondent No. 1 : Mr. V.S. Badakh
Advocate for Respondent No. 2 : Mr. Shah Mohit S.

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CORAM : RAJNISH R. VYAS, J.

DATE : 06TH APRIL, 2026

PER COURT :

1. Challenge in this petition is at the instance of original accused nos. 4 and 5 to the registration of First Information Report bearing no. 415/2023 dated 19.12.2023, registered with West Devpur, Police Station, District Dhule, for commission of offences punishable under Sections 498 – A, 323, 504, 506 read with 34 of the Indian Penal Code. Applicant no. 1 is brother-in-law of the informant whereas, applicant no. 2 is wife of applicant no. 2. In all five accused were named in the FIR.

2. Learned counsel for the applicants contended that even if the contents of FIR and final report are taken to be true, no man of ordinary prudence would arrive at the conclusion that applicants have committed any offence. He submitted that statements are of general nature and would not be enough to attract the ingredients of offence registered. He also invited my attention to page 104 of the record and, more particularly, order taking cognizance. According to him, the said order is striking example of non application of mind, since it is 'stamped order' which reads as under :

“Order below Exh. 1 in RCC/STC No. /20

Grounds are sufficient to issue Precess against accused. Hence Process is issue against accused for the offence P/U/Sec. IPC 498 a, 323, 504, 506, 34 and issue summons to the accused.”

3. Per contra, learned counsel for the informant has contended that there are specific allegations against applicant nos. 1 and 2 and in fact problem is aggravated once the marriage of applicant nos. 1 and 2 was solemnized. He contended that since Section 34 of the IPC, is also invoked against the applicants, whether there was a common intention or not can be decided during the course of trial. He thus prayed for dismissal of application.

4. Learned APP Mr. Badakh, has vehemently opposed the application and has contended that application is liable to be dismissed as mini trial at this stage is not at all permissible.

5. With the help of the respective counsels, I have gone through the record of the case.

6. FIR lodged by one Poonam Gaurav Shinde reveals that her marriage was solemnized with Gaurav Shinde on 26.02.2020, in which her father had gifted her gold of 18 Tolas and other ornaments. According to her, after marriage she started residing with her in-laws together. Initially, for few days she was treated properly but thereafter, husband started suspecting her character and on that count, he used to abuse her. When informant narrated the said incident to her mother-in-law and father-in-law, instead of taking stand for non applicant no. 2, mother-in-law, father-in-law and brother-in-law pointed out the mistakes of the informant and abused her. Since the informant was willing to reside with her husband, she ignored the aforesaid facts but in spite of that, her husband, father-in-law, mother-in-law and brother-in-law used to physically and mentally harass her. They used to say that they were intending to get marry their son with a girl from IT sector and were not in fact intending to marry their son with non-applicant no. 2.

7. Non-applicant no. 2 then questioned the applicants as to what would happen to the fetus, on which the husband told her that she should fall from the staircase. It was further alleged that the aforesaid fact was narrated by the informant to mother-in-law, father-in-law and brother-in-law, who ignored the said aspect.

8. The informant then informed the incident to her parents who came to convince father-in-law and mother-in-law, at which time husband of informant and father-in-law and mother-in-law had tendered apology to parents of informant and assured that in future, she would not face any problem.

9. It was alleged in the FIR, that on 09.07.2021, the informant was blessed with a baby boy and though her father-in-law and mother-in-law visited, but husband did not come to see the child. The informant then went at matrimonial place to reside but the behavior of the husband did not change.

10. So far as the present applicants are concerned, it is alleged that in the year 2023, marriage of applicant no. 1 was performed with applicant no. 2 and applicant no. 2 then started residing with them. It was alleged in the FIR that both the applicants used to instigate the husband

of informant, due to which she was subjected to mental and physical harassment. On 10.09.2023, the husband abused and assaulted non-applicant no. 2 during a domestic quarrel and therefore, it become difficult for her to reside in the matrimonial house. The informant then left the matrimonial house along with brother and started residing with her parents.

11. On 14.10.2023, a meeting was organized where again apology was tendered and request was made to send informant for cohabitation. The informant considering the future of her child, agreed to reside with the in-laws. On 16.10.2023, parents of the informant along with the brother came to drop informant and her child at her in-laws place, at that time, accused persons assaulted parents of the informant and driven them out. Husband had also threatened her to kill. Non-applicant no. 2 then realized that the in-laws would not allow her to live with them and therefore, on 19.10.2023, she made a complaint with Women's Grievance Redressal Cell, Dhule, where on different dates the matter was fixed for counseling. None of the accused persons attended the relevant dates and consequently, on the basis of which the FIR was lodged.

12. In this background, if the allegations in the FIR, as well as

the statements of the witnesses, are considered, it is crystal clear that what has been alleged against the present applicants is a general/omnibus act of ill-treatment. The general allegations are made that the applicants used to harass the informant physically and mentally. The complaint and the final report is bereft of specific details qua the present applicants. At this stage, learned counsel for the applicants has invited my attention to the law laid down by the Hon'ble Apex Court in Criminal Appeal No. - of 2025, arising out of SLP (Cri.) No. 5067/2024, in case of **M/s. JM Laboratories and Others Versus State of Andhra Pradesh and Another**, more particularly, paragraph no. 35 reads thus :

“35. This Court has clearly held that summoning of an accused in a criminal case is a serious matter. It has been held that the order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. This Court held that the Magistrate is required to examine the nature of allegations made in the complaint and the evidence, both oral and documentary in support thereof and as to whether that would be sufficient for proceeding against the accused. It has been held that the magistrate is not a silent spectator at the time of recording of preliminary evidence before summoning the accused.”

13. He has contended that setting criminal law in a motion is a

serious matter and, therefore, the Magistrate is under obligation to apply his mind. Taking advantage of the aforesaid observation of the Hon'ble Apex Court, he has than pointed out the order issuing process which is page no. 104. The said order is already reproduced supra. It is very disturbing to note that the concern Court has used the rubber stamp and has stated that grounds are sufficient to issue the process. The application of mind is totally absent.

14. Learned counsel for non-applicant no. 2 has relied upon the judgment dated 15.07.2022 passed in Writ Petition no. 5067/2019, by the Hon'ble Division Bench of Bombay High Court and has contended that if there are specific allegations, then the FIR cannot be quashed. It is well settled principle of law that if there are specific allegations supported by the details, the prosecution under Section 498-A can allow to be continued even against the relatives of the husband.

15. In the present case, as already stated the allegations against the present applicants are vague and general and, therefore, it cannot be said that *prima facie* material is available against the present applicants. Coming to the contentions of the counsels that mini trial cannot be conducted at this stage, suffice it to say that perusing the record in order to arrive at the conclusion whether *prima facie* case is made out or not

would not amount to conducting mini trial. Since the ingredients of offences are not attracted qua the role of present applicants, I am inclined to pass the following order :

ORDER

- i. The First Information Report No. 415/2023 dated 19.12.2023, for the offence punishable under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code, registered at West Devpur Police Station, Dhule and the further proceedings R.C.C. No. 148/2024, pending before the learned 7th Judicial Magistrate First Class, Dhule, and the impugned order dated 27.02.2024, passed below Exh. 1 in in RCC No. 148/2024, qua the present applicants, stands quashed.
- ii. Criminal Writ Petition is disposed of.

(RAJNISH R. VYAS, J.)