



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPLICATION NO.79 OF 2025**

1. Mohd. Mudassir Muzaffar Khan
Age: 37 Years, Occ: Medical Practioner,
R/o.: Ashtabhuj Mandir,
Mungsaji Ward, Ghatanji, Yevatmal. ..Husband
2. Mohd. Muzaffar Khan Sikandar Khan
Age: 75 Years, Occ: Nil, R/o.: Garib Nawaz
Colony, Karanja,
Post Karanja, Dist. Washim. ..Father-in-law
3. Mohammad Zafar Iqbal Muzaffar Khan
Age: 41 Years, Occ: Medical Practioner,
R/o.: Quazipura, Karanja Lad,
Tq. Karanja Lad, Dist. Washim. ..Brother-in-law
4. Afreen Anjum Zafar Khan,
Age: 28 Years, Occ: Household,
R/o.: K. N. College Road Memon Colony,
Karanja, Dist. Washim. ..Sister-in-law
5. Shabana D/o Mohammad Muzaffar
(Name Referred in FIR)
Shaiwana Khudaija Mohammad Sohail,
Age: 44 Years, Occ: Household,
R/o.: Rahemat Nagar, Word NA, 06,
Dongaon, Dongaon, Dist. Buldhana. ..Sister-in-law

Versus

1. The State of Maharashtra
Through its Police Inspector,
Jintur Police Station, Tq. Jintur, Dist. Parbhani.
2. Asma Parveen W/o. Mohd. Mudassir Pathan
Age: 25 Years, Occ: Household,
R/o.: C/o. Safdar Ali Syed Yaqub Ali Syed,
Near Ganpati Mandir, Naikwadi Galli,
Jintur, Tq. Jintur, Dist. Parbhani. ..Respondents

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Mr. S. S. Kazi, Advocate for the Applicants.
Mr. K. B. Jadhavar, Advocate for Respondent-State.
Mr. Y. B. Kale, Advocate for Respondent No.2.

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CORAM : S. G. CHAPALGAONKAR, J.
DATED : 12th FEBRUARY, 2026.

FINAL ORDER:-

1. The applicants seeks quashment of FIR dated 02.12.2024 in Crime No.719/2024 registered with Jintur Police Station, Dist. Parbhani for offences punishable under Sections 498-A, 323, 504, 506 r/w 34 of Indian Penal Code.
2. The investigation was set in motion on basis of information given by respondent no.2 alleging that on 26.02.2022 she married with applicant no.1. This was second marriage of applicant no.1 as well as respondent no.2. The respondent no.2 has daughter from her first marriage. It is alleged that after marriage, she was treated well for two months. However, thereafter her daughter from first marriage was ill-treated. She was also beaten by in-laws. The in-laws used to brand her unlucky for them. In year 2022, she conceived pregnancy. However, due to assault by her husband, she was to abort pregnancy. Thereafter, she was again taken to matrimonial home, but ill-treated on demand of Rs.10,00,000/- and lastly on 14.06.2024 she was driven out of home.
3. Mr. Kazi, learned Advocate appearing for applicants, on instructions, seeks permission to withdraw application to the extent of applicant no.1-husband and restricted his submissions to the extent of applicant nos.2 to 5.

4. Permission is granted. Criminal Application stands dismissed as withdrawn to the extent of applicant no.1-Husband.

5. Mr. Kazi would submit that applicant no.2 is residing with another son namely Mohammad Zafar Khan, applicant nos.3 and 4 are residing at Karanja Lad, applicant no.5, who is elder sister of applicant no.1 is married and residing with her husband at Dongaon, District Buldhana and none of applicants resided with applicant no.1 and respondent no.2. The respondent no.2 left matrimonial home on 13.07.2022. She had applied for Khula/divorce, as she was unwilling to continue relationship with applicant no.1 and lastly lodged FIR, thereby implicating all family members with intention to pressurize applicant no.1 to accede with her demand. Mr. Kazi would further submit that allegations against applicant nos.2 to 5 are omnibus, unspecific and general in nature and does not constitute offence under Section 498-A of Indian Penal Code. In support of his submissions Mr. Kazi relies upon observations of Supreme Court in case of ***Dara Lakshmi Narayana and Others Vs. State of Telangana and Another***¹.

6. Per contra, Mr. Jadhavar, learned APP appearing for respondent-State and Mr. Kale, learned Advocate appearing for respondent no.2 vehemently opposes prayer in application contending that there are sufficient assertions in FIR making out

¹ (2025) 3 SCC 735.

offences. Mr. Kale relying upon contents of affidavit-in-reply filed on behalf of respondent no.2 submits that averments in FIR needs to be tested during course of trial. The respondent no.2 has filed proceeding under Section 12 of Protection of Women from Domestic Violence Act as well as proceeding under Section 144 of Bhartiya Nagarik Suraksha Sanhita, 2023. The interference by this Court may seriously prejudice pending proceedings.

7. Having considered submissions advanced by learned Advocates appearing for respective parties and on perusal of averments in FIR it is abundantly clear that respondent no.2 married with applicant no.1 on 26.06.2022. It was second marriage for both of them. The respondent no.2 had daughter from first husband. The allegations in FIR are relating to mis-behaviour with child by in-laws. So far as allegations as against applicants are concerned, mere statement is made that they teased her as unlucky. Except above, no specific assertions are made against any of applicants or family members.

8. At this stage, reference can be given to the observations made by the Supreme Court in case of ***Preeti Gupta and Another and Another Vs. State of Jharkhand and Another***², wherein the Apex Court observed in paragraph nos.30, 32 and 34 as under :-

² (2010) 7 SCC 667.

“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 the moment over trivial issues without proper deliberations. We come 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 are also a matter of serious concern.

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

9. In yet another judgment in case of ***Kahkashan Kausar @ Sonam and Others Vs. State of Bihar and Others***³, the Supreme Court after taking stock of various earlier decisions in the subject matter, observed in paragraph no.17 as under:

“17. The above-mentioned decisions clearly demonstrate that this court has at numerous instances expressed concern over the misuse of section 498A 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.”

10. Similarly, in the case of ***Sushil Kumar Sharma vs. Union of India and others***⁴, the Supreme Court observed in paragraph no.19 as under :-

³ (2022) 6 SCC 599.

⁴ (2005) 6 SCC 281.

“19. The object of the provision is prevention of the dowry meance. But as has been rightly contended by the petitioner 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 ignomy 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. It may, therefore, become necessary for the legislature to find out ways how the makers of frivolous complaints or allegations can be appropriately dealt with. Till then the Courts have to take care of the situation within the existing frame work. As noted the object is to strike at the roots of dowry menace. But by misuse of the provision a new legal terrorism can be unleashed. The provision is intended to be used a shield and not assassins' weapon. If cry of "wolf" is made too often as a prank assistance and protection may not be available when the actual "wolf" appears. There is no question of investigating agency and Courts casually dealing with the allegations. They cannot follow any strait jacket formula in the matters relating to dowry tortures, deaths and cruelty. It cannot be lost sight of that ultimate objective of every legal system is to arrive at truth, punish the guilty and protect the innocent. There is no scope for any pre-conceived notion or view. It is strenuously argued by the petitioner that the investigating agencies and the courts start with the presumption that the accused persons are guilty and that the complainant is speaking the truth. This is too wide available and generalized statement. Certain statutory presumption are drawn which again are reputable. It is to be noted that the role of the investigating agencies and the courts is that of watch dog and not of a bloodhound. It should be their effort to see that innocent person is not made to suffer on account of unfounded, baseless and malicious allegations. It is equally indisputable that in many cases no direct evidence is available and the courts have to act on circumstantial evidence. While dealing with such cases, the law laid down relating to circumstantial evidence has to be kept in view.”

11. In light of aforesaid exposition of law, it can be observed that Supreme Court has time and again expressed concern over misuse of Section 498-A and increasing tendency of implicating relatives of husband in matrimonial dispute. It is further warned that false implication by way of general omnibus allegations made against in-laws needs to be checked to avoid misuse of process of law. The present one is example of attempt of over implication. Mere statement that all applicants teased daughter of respondent no.2 would not suffice to make out offence under Section 498-A of Indian Penal Code.

12. In light of aforesaid factual scenario and legal exposition, this Court has no hesitation to hold that continuation of prosecution against applicant nos.2 to 5 would be abuse of process of law. Hence, case is made out to exercise inherent powers under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023.

13. In result, Criminal Application is allowed in terms of prayer Clause (B) to the extent of applicant nos.2 to 5. The prosecution may go on against applicant no.1/husband whose application is disposed as withdrawn.

(S. G. CHAPALGAONKAR)
JUDGE