



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPLICATION NO.1238 OF 2025**

1. Prakash s/o Shesherao Salunke,
Age 35 years, Occu: Labour stone crusher.
R/o C/o Balaji Mahajan,
Rajiv Gandhi Nagar, N-2, CIDCO,
Ch. Sambaji Nagar,
Tq. & District Ch. Sambaji Nagar. ..Husband
2. Shesherao s/o Mohandrao Salunke,
Age 63 years, Occu: Agril.,
R/o Malunja (Bk), Tq. Gangapur,
District Ch. Sambhaji Nagar. ..Father-in-law
3. Sangeeta Shesherao Salunke,
Age 60 years, Occu: Household,
R/o as above. ..Mother-in-law
4. Pradip s/o Shesherao Salunke,
Age 40 years, Occu: Agril.
R/o as above. ..Brother-in-law
5. Pratibha w/o Pradip Salunke,
Age 34 years, Occu: Household,
R/o as above. ..Wife of Brother-in-law
6. Vikas Shesherao Salunke,
Age 35 years, Occu: Agril,
R/o as above. ..Brother-in-law
7. Vaishnavi @ Swati Vikas Salunke,
Age 28 years, Occu: Household,
R/o as above. ..wife of Brother-in-law

Versus

1. The State of Maharashtra,
Through its Police Station Officer,
Thirthpuri, Police Station,
Tq. Ghansawangi, District Jalna.
2. Priyanka w/o Prakash Salunke,
Age 33 years, Occu: Household,
R/o Malunja (Bk), Tq. Gangapur,
District Ch. Sambhaji Nagar.

At present Thirthpuri, Tq. Ghansawangi,
District Jalna.

..Respondents

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Mr. G. J. Karne, Advocate for the Applicants.

Mr. S. R. Yadav-Lonikar, APP for Respondent-State.

Mr. V. S. Wakale, 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 charge-sheet in Crime No.18/2025 registered with Ambad Police Station, Dist. Jalna for offences punishable under Sections 85, 115(2), 352, 351(2), 3(5) of Bhartiya Nyaya Sanhita, 2023 and further proceeding in R.C.C. No.123/2025 (later on transferred to Judicial Magistrate First Class, Ghansavangi and renumbered as R.C.C. No.590/2025) pending before Judicial Magistrate First Class at Ambad.

2. By way of amendment, applicants have also raised challenge to order dated 09.03.2025 passed by Judicial Magistrate First Class, Ambad, thereby taking cognizance on the basis of police report.

3. The investigation was set in motion on the basis of information given by respondent no.2 alleging that on 19.02.2014, she married with applicant no.1. She was treated well for a year after marriage. On 16.02.2015, she delivered stale child. Thereafter, she returned to her matrimonial home. It is alleged that applicants blamed her for stale born child. It is further

alleged that thereafter she resided at Aurangabad alongwith her husband. During their cohabitation of ten years, she begot two children. However, whenever she visited her matrimonial home at village, in-laws used to mentally and physically torture her. After marriage of her brother-in-law, she was not allowed to visit village Malunja. She alleges that in-laws used to insist her to bring gold and money from her parents. Once her mother paid amount of Rs.1,00,000/-. She was treated well for some time. Thereafter, on 14.07.2024 in-laws insisted her for bringing Rs.25,00,000/- from mother and assaulted her and driven out of home.

4. In pursuance to aforesaid information, Crime No.18/2025 was registered. The investigation progressed leading to filing of charge-sheet. At present, R.C.C. No.123/2025 is pending trial before Judicial Magistrate First Class, Ambad (later on transferred to Judicial Magistrate First Class, Ghansanvangi and re-numbered as R.C.C. No.590/2025).

5. Mr. Karne, 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 7.

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

7. The applicant no.2 is father-in-law, applicant no.3 is mother-in-law, applicant no.4 is brother-in-law, applicant no.5 is wife of applicant no.4, applicant no.6 is brother-in-law and applicant no.7 is wife of applicant no.6. Mr. Karne would point out that respondent no.2 resided at Aurangabad alongwith applicant no.1. She hardly resided at village Malunja alongwith applicant nos.2 to 7. The allegations in FIR are vague and unspecific. No particulars of overt act on part of applicants are enumerated. The omnibus allegations are made against each of applicants. The grievance of respondent no.2 appears to be against husband only. However, all family members are implicated on the basis of general and omnibus allegations. He would, therefore, urge that no case can be made from material in charge-sheet to prosecute applicants.

8. Per contra, Mr. Yadav-Lonikar, learned APP appearing for respondent no.1 and Mr. Wakale, learned Advocate appearing for respondent no.2 strongly opposes application. According to them, there is sufficient material to relegate applicants for trial and at the most trial itself can be expedited.

9. Having considered submissions advanced by learned Advocates appearing for respective parties and on perusal of averments in FIR as well as contents of charge-sheet, it can be observed that respondent no.2 married with applicant no.1 in year

2014. She resided at Aurangabad in CIDCO area alongwith applicant no.1. The couple is blessed with two children, aged about 8 to 10 years. On 14.07.2024 applicant no.1 filed proceeding for restitution of conjugal rights under Section 9 of Hindu Marriage Act, 1955 against respondent no.2. The FIR is lodged after receipt of notice of aforesaid proceeding. The gist of FIR depicts that initial part of allegations pertains to period from 2014 to 2015. The subsequent part of FIR relates to period from 2015 upto 2024. In subsequent part of FIR, which relates to period post-2015, there are general and omnibus allegations against all applicants stating that whenever respondent no.2 visited matrimonial home at village, applicants used to mentally and physically torture her. There is no whisper of demand of money during this period. The last part of FIR relates to alleged incident of 14.07.2024. However, no particulars regarding so called ill-treatment are given.

10. Perusal of statement of witnesses would show that those are stereotype, omnibus and reiteration of contents of FIR. None of statement specifies particular role of any applicant.

11. 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***¹,

¹ (2010) 7 SCC 667.

wherein the 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 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.”

12. In yet another judgment in case of ***Kahkashan Kausar @ Sonam and Others Vs. State of Bihar and Others***², 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.”

13. Similarly, in the case of ***Sushil Kumar Sharma vs. Union of India and others***³, the Supreme Court observed in paragraph no.19 as under :-

“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.”

14. 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 of Indian Penal Code and increasing tendency of implicating relatives of husband in matrimonial dispute. It is further warned that false implication by way of general and 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 mentally and physically tortured respondent no.2 would not suffice to make out offence under Section 498-A of Indian Penal Code.

15. In present case, respondent no.2 married in year 2014 and FIR has been lodged, when husband filed proceeding for restitution of conjugal right. It is matter of record that both children are residing with husband and respondent no.2 has left their company. While she was residing at Aurangabad alongwith her husband, in-laws are residing at village. In that view of matter, allegations of mental and physical ill-treatment towards respondent no.2 by them cannot be countenanced. The application to the extent of applicant no.1 is already withdrawn and dismissed against whom some sort of allegations are made. However, 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 7 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.

16. In result, Criminal Application is allowed in terms of prayer Clauses (B) and (B-1) to the extent of applicant nos.2 to 7.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/February-2026