

lgc

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.1132 OF 2025

Shakuntala Narhari Nimje & ors. : Applicants.
Versus
The State of Maharashtra & Anr. : Respondents.

Ms. Chaitrali Deshmukh for the Applicants.
Mr. Sukanta Karmakar, APP for the Respondent/State.
Mr. Sunil Mukund Kelkar for Respondent No.2

CORAM : ASHWIN D. BHOBE, J.

DATED : 07 MARCH 2026

PC:-

1. Heard Ms. Chaitrali Deshmukh, learned Advocate for the Applicants, Mr. Sukanta Karmakar, learned APP for the Respondent/State and Mr. Sunil Kelkar, learned Advocate for the Respondent No.2.

2. This Application under Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 is preferred by the Applicants seeking quashing of the FIR bearing No.755 of 2024 dated 28 July 2024 registered with Mahatma Phule Police Station, Kalyan for the offences punishable under Sections 498A, 323, 504 r/w 34 of the Indian Penal Code. (the impugned FIR), the chargesheet bearing No.I-168 of 2024 dated 30 September

2024 which is now registered as RCC No.765 of 2024 pending on the file of the Judicial Magistrate First Class, Kalyan and the order dated 09 October 2024 issuing the process against the Applicants.

3. The facts material for the adjudication of the present Application are that the Respondent No.2 (wife) has a matrimonial dispute with her husband Khushal Nimaje. Applicants are relatives of Khushal Nimaje. Applicant No.1 is the mother-in-law, Applicant No.2 is the father-in-law, Applicant No.3 is the brother-in-law and Applicant No. 4 is the sister-in-law. The Respondent No.2 lodged a complaint dated 28 July 2024 before the Respondent No.1 alleging harassment and cruelty at the hands of her husband Khushal Nimaje and the Applicants. On the basis of the said complaint, the impugned FIR was registered.

4. Khushal Nimaje has not approached the Court for quashing of the FIR.

5. The impugned FIR indicates that the allegations are essentially against Khushal Nimaje (husband of the Respondent No.2). The allegations in respect of the Applicants herein are of causing harassment to the Respondent No.2 which has resulted in she being disturbed.

6. Ms. Chaitrali Deshmukh, learned Advocate for the Applicants, submits that the allegations made in the impugned FIR are vague and false. She submits that the marriage of the

Respondent No.2 with Khushal Nimaje was performed on 15 April 2022. She submits that till 15 July 2022 Khushal Nimaje along with the Respondent No.2 resided in a joint family with Applicants. Since 01 July 2022 the Respondent No.2 and Khushal Nimaje are residing separately in separate independent economy. She submits that the Applicants were neither residing with the Respondent No.2 nor does Respondent No.2 claim residing with the Applicants after 01 July 2022. She submits that it is on account of intent to take revenge against Khushal Nimaje that all his family members have been implicated in the present crime. She submits that the ingredients of the offence charged in the impugned FIR are not made out as against the Applicants.

7. Ms. Chaitrali Deshmukh further submits that the Respondent No.2 has initiated proceedings under the Protection of Women from Domestic Violence Act, 2005 (PwDV Act) against Khushal Nimaje which are being contested by Khushal Nimaje. She submits that Khushal Nimaje has filed proceedings under Section 13 of the Hindu Marriage Act, 1955 for divorce wherein the Civil Judge Senior Division, Kalyan has passed the order directing to pay interim maintenance to the Respondent No.2. She submits that though Khushal Nimaje has challenged the said order granting interim maintenance, however, without prejudice to his rights, he has today tendered a cheque amounting to Rs.75,000/- to Respondent No.2 as a part payment towards interim maintenance. She states that a further amount of Rs.75000/-

would be paid to Respondent No.2 by Khushal Nimaje within a period of two weeks from today.

8. Mr. Sunil Kelkar, learned Advocate for the Respondent No.2, submits that the grievance of the Respondent No.2 as against the Applicants is that the Applicants were not permitting the Respondent No.2 and Khushal Nimaje to reside with them as a joint family in the common house. He submits that on account of said denial, the Respondent No.2 and Khushal Nimaje had to stay separately with effect from 01 July 2022. He submits that the Respondent No.2 has filed proceedings under the provisions of PwDV Act seeking various reliefs, and the Respondent No.2 is contesting the divorce proceedings filed by Khushal Nimaje. He states that today he has received a cheque amounting to Rs.75,000/- from Advocate Ms. Chaitrali Deshmukh as a part payment of the interim maintenance from Khushal Nimaje.

9. Mr. Sukanta Karmakar, learned APP for the Respondent/State submits that the subject matter of the impugned FIR apparently is a matrimonial dispute between the Respondent No.2 and Khushal Nimaje wherein the Applicants appeared to have been roped in.

10. Arguments heard. Perused records.

11. The allegations as against the Applicants herein are found in the impugned FIR in the following statements which are quoted herein below in verbatim :-

“नेथे देखील माझे पती, सासु, सासरे, दिर आणि दिराणी यांनी मला घालुन पाडुन बोलुन मारुन मानसिक त्रास दिला.”

12. Mr. Sunil Kelkar, learned Advocate for the Respondent No.2, states that in addition to the aforesaid quoted statements in the impugned FIR, the other allegations are in respect of the taunts by the in-laws to the Respondent No.2 of she not bearing a child.

13. Section 498(A) of the IPC has two components, namely that the husband or a relative of the husband should subject the woman to cruelty. Such “cruelty” means willful conduct that is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health. “Harassment” as used in the said section means to force the woman or any person related to her to meet any unlawful demand for any property or valuable security and to harass her for non-fulfillment of such demands. The allegations in the impugned FIR do not reveal any specific instance of cruelty committed by the Applicants.

14. From the submissions of Mr. Sunil Kelkar as recorded herien above it is apparent that the Applicants who are the family members of Khushal Nimaje (husband of the Respondent No.2) have been implicated in the impugned FIR on the ground that the Respondent No.2 was denied of residing as a joint family with the Applicants in a common house. Allegations attributed to the Applicants are vague and

omnibus. Such allegations/contentions do not constitute any offence. The Applicants are dragged into criminal prosecution which would amount to an abuse of process of law.

15. Even if the allegations as made in the impugned FIR are taken on face value, the ingredients of Sections 498A, 323 and 504 of the Indian Penal Code are not made out as against the Applicants. The impugned FIR appears to be a retaliatory measure intended to settle scores with Khushal Nimaje and his family members.

16. The Hon'ble Supreme Court in the case of **Kahkashan Kausar alias Sonam and others Vs. State of Bihar and others**¹, after having observed the trend of family members being implicated in such offences, has cautioned against prosecuting husband and his family in the absence of clear prima facie case against them.

17. Considering the principles laid down by the Hon'ble Supreme Court in the case of **State of Haryana Vs. Bhajan Lal**² this is a fit case to exercise powers under Section 528 of the BNSS to prevent abuse of process of law.

18. In view of above, this Writ Petition is allowed in terms of prayer clause (b). Consequently the impugned FIR, the charge-sheet being No.765 of 2024 and the order dated 09

¹ (2022) 6 SCC 599

² 1992 Supp (1) SCC 335

October 2024 issuing process against the Applicants are quashed and set aside.

19. In the facts and circumstances of the present, there shall be no order as to costs.

20. The Criminal Application No.1132 of 2025 is disposed of.

(ASHWIN D. BHOBE, J.)