

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

CRIMINAL APPLICATION NO. 1169 OF 2025

1. Mala Awadhbihari Bharadwaj,
Age-62 years, Occu.-Household,
R/o.-House No. 400A, Ward No. 23,
Janpul Station Road, Shantipuri,
City – Motihari, Dist.-East Champaran,
Bihar-845401.

2. Raushan Awadhbihari Bharadwaj,
Age-37 years, Occu.-Service,
R/o.-House No. 400A, Ward No. 23,
Janpul Station Road, Shantipuri,
City – Motihari, Dist.-East Champaran,
Bihar-845401.

...Applicants

Versus.

1. The State of Maharashtra,
Through its Police Inspector,
Kondhwa Police Station, Pune.

2. Shruti Raushan Bharadwaj,
Age-31 years, Occu.-Service,
R/o.-Type 4, C/8 Ekta Vihar, Sec-25,
CBD Belapur, Panvel.

...Respondents

Ms. Kalyani Mangave, learned Advocate for the Applicants.

Mr. Sukanta A. Karmakar, learned A.P.P. for the State/Respondent No.1.

Ms. Aarti Pandey, learned Advocate for Respondent No. 2.

API Mr. Sachin Thorat attached to Kondhwa Police Station is present in the Court.

CORAM : ASHWIN D. BHOBE, J.

DATE : 11th FEBRUARY 2026.

JUDGEMENT :

1. Heard Ms. Kalyani Mangave, learned Advocate for the Applicants, Mr. Sukanta Karmakar, learned A.P.P. for the State/Respondent No. 1 and Ms. Aarti Pandey, learned Advocate for Respondent No. 2.
2. Given the dispute in this Criminal Application, which is a family matter, on 17.01.2026, the parties were called upon to explore the possibility of a settlement. On 22.01.2026, Ms. Kalyani Mangave, learned Advocate for the Applicants and Ms. Aarti Pandey, learned Advocate for Respondent No. 2, reported that the settlement had failed.
3. This Criminal Application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (“**BNSS**”), is preferred by the Applicants against the First Information Report No. 1299 of 2022, dated 30.12.2022, registered with the Kondhwa Police Station, District-Pune, for offences punishable under Sections 498(A), 506, 504 & 323 read with Section 34 of the Indian Penal Code, 1860 (“**IPC**”); the Charge-sheet arising out of the said FIR, registered as Regular Criminal Case No. 1194 of 2023, pending before the Court of the Judicial Magistrate First Class, Pune (Magistrate) and the Order taking cognizance dated 28.08.2023, passed by the Magistrate in RCC No. 1194 of 2023.
4. Material facts relevant to the adjudication of the present Criminal Application are that Respondent No. 2 is an Assistant Branch Manager in a Bank, whereas Applicant No. 2 is employed

with a Private Limited Company in Hyderabad. Applicant No. 1 is the mother-in-law of Respondent No. 2. The marriage between Applicant No. 2 (husband) and Respondent No. 2 (wife) was solemnized on 19.04.2019. Out of the said wedlock, a daughter was born on 01.05.2021. Apparently, matrimonial discord between Applicant No. 2 and Respondent No. 2 led Applicant No. 2 to address an email dated 03.12.2022 to the Commissioner of Police, Pune, expressing apprehension that Respondent No. 2 would implicate the Applicants in a false criminal case (Page No. 58 of the paper-book).

5. The FIR was registered by Respondent No. 1 on a complaint lodged by Respondent No. 2 on 30.12.2022. The FIR alleges that, at the time of marriage in 2019, the Applicants demanded dowry, a car, and a stay at a Five Star Hotel in Patna. Respondent No. 2 alleges that the Applicants subjected her to cruelty, resulting in physical and mental harassment. Respondent No. 2 states that she and Applicant No. 1 purchased a flat by contributing to the down payment. Respondent No. 2 claims to pay the flat loan, whereas Applicant No. 2 receives the rent. Respondent No. 2 states in her complaint that, from August 2021, Applicant No. 2 was posted at Mohali for training and that he did not visit her even once for a period of one year after his posting at Mohali, though he continued to trouble her by phone. She alleges that Applicant No. 2 returned in July 2022 after his training and continued the harassment.

6. Upon investigation, a charge sheet was filed, and the Judicial Magistrate First Class of the Pune Cantonment Court, Pune (Magistrate), has taken cognizance of the charge sheet.

7. The present Criminal Application was initially filed as Criminal Writ Petition No. 1676 of 2025. By order dated 26.09.2025, on the request of the Applicants for the reasons recorded in the said order, the Applicants were granted leave to convert the said Criminal Writ Petition into a Criminal Application. Ms. Arti Pandey has relied on the order dated 26.09.2025. As such, the same is transcribed herein below :-

“1) The learned Counsel for the Petitioners submitted that in this case the cognizance is taken and therefore, he needs to challenge the order taking cognizance. At his request the leave is granted for the following purposes :-

(i) To annex a copy of the order taking cognizance.

(ii) To add the prayer challenging the order taking cognizance.

(iii) To add the corresponding grounds in the memo.

(iv) To delete the reference of Article 226 of the Constitution of India in the cause title.

3) The amendment shall be carried out within a period of four weeks from today.

4) Once the amendment is carried out, it will not remain Criminal Writ Petition under Article 226 of the Constitution of India. Therefore, the office shall permit the Petitioner to convert this Criminal Writ Petition into an appropriate Criminal Application.

5) After it is so converted, in view of the Order dated 11th September, 2025 passed in Criminal Writ Petition No. 3901 of 2021 and the Order dated 9th September, 2025 passed in Criminal Writ Petition No. 2056 of 2025, the matter would now lie before the appropriate Single Judge Bench. Therefore, office to take steps to place this matter before the appropriate

Single Judge Bench of this Court.

6) It is made clear that there is no stay operating in favour of the Petitioners in this case.”

8. Ms. Kalyani Mangave, learned Advocate for the Applicants, submits that, taken as a whole, the allegations in the FIR and the charge-sheet are vague, with no reference to the date or time. As such, the ingredients of Section 498(A) of the IPC, as also other sections, are not made out. She submits that the FIR indicates no role or allegations against the mother-in-law. She submits that the FIR filed in 2022 alleges incidents that occurred in 2019, but the delay is not explained. She, by referring to the photograph, admittedly of the date 29.01.2023 (at Page No. 59 of the paper-book), wherein Applicant No. 2, Respondent No. 2 and their minor girl are seen on an All Terrain Vehicle (ATV), would displace the allegations made by Respondent No. 2 in her complaint filed on 30.12.2022. She refers to a complaint of Respondent No. 2 (at page nos. 114 to 117 of the paper-book) and submits that the said complaint is an afterthought filed with malicious intentions, which is evident from the same being undated. At any rate, she submits that the contents of the said undated complaint, more so para no. 11, would demonstrate the falsity in the case of Respondent No. 2. To clarify, she submits that in the FIR, Respondent No. 2 alleges the Applicant to be at Mohali from the month of August 2021 for training and that he did not visit her even once for a period of one year after his posting at Mohali, but in the undated complaint which forms a part of the charge-sheet, Respondent No. 2 alleges Applicant No. 2 having choked her at Motihari on 15.03.2022. She submits that Respondent No. 1 issued a Section 41 A notice under

Criminal Procedure Code, 1973 on 03.02.2023. She submits that the dispute was created by Respondent No. 1 to force and pressure Applicant No. 2 to leave his job with the Company in Hyderabad and come to stay with Respondent No. 2 in Pune, Maharashtra. She therefore submits that Respondent No. 2 has made false allegations and abused the process of law. She relies on the following decisions of the Hon'ble Supreme Court in the case of *Digambar and Another v/s. State of Maharashtra and Another*¹ and in the case of *Dara Lakshmi Narayana and Others v/s. State of Telangana and Another*². She submits that the Order taking cognizance, a Stamp order, discloses a total lack of application of mind on the part of the Magistrate.

9. Mr. Sukanta Karmakar, learned A.P.P. for the State/Respondent No. 1, submits that Respondent No. 1, upon receipt of the complaint, registered the FIR, completed the investigation, and thereafter filed the charge-sheet in accordance with law.

10. Ms. Aarti Pandey, learned Advocate for Respondent No. 2, has tendered the written submissions dated 17.01.2026. She has advanced the following oral arguments:-

a. By relying on the Order dated 26.09.2025, passed in Criminal Writ Petition No. 1676 of 2025, she submits that the Applicants are not entitled to any relief. She submits that, before passing the order dated 26.09.2025, this Court declined to grant any relief in respect of the challenge to the FIR. She

1. 2024 SCC OnLine SC 3836.

2. (2025)3 Supreme Court Cases 735.

submits that, by the present Criminal Application, the Applicants have expanded the scope of the proceedings by challenging the order taking cognizance. She submits that the scope of this Application remains strictly confined to what was expressly permitted earlier, namely, a limited challenge to the order taking cognizance and not a re-agitation of the FIR or a stay of trial proceedings. She submits that, as the Division Bench of this Court, in its order dated 26.09.2025, declined to grant a stay of the proceedings, this Court should not interfere in the matter and should dismiss the Criminal Application.

b. She submits that the Magistrate applied his judicial mind and took cognizance of the charge-sheet. She submits that the order taking cognizance cannot be faulted for any jurisdictional or procedural error. She submits that the scope of Section 482 of the Criminal Procedure Code, 1973 (Section 528 of the BNSS) is limited, and the Magistrate having issued process, this Court should not exercise its jurisdiction. According to Ms. Aarti Pandey, Applicants should attend the Trial Court and contest the proceedings instead of dragging Respondent No. 2 into this Criminal Application.

c. She submits that the Applicants have not appeared before the Magistrate, and warrants were issued against them for their absence. She submits that, although the warrant issued to Applicant No. 2 has been cancelled, Applicant No. 1 has not appeared before the Magistrate. She submits that the conduct of the Applicants does not warrant equitable relief.

d. Ms. Aarti Pandey, though, does not dispute the photograph (at Page No. 59 of the paper-book). However, she submits that Respondent No. 2, even after lodging the complaint on 30.12.2022, was holidaying with Applicant No. 2 on 29.01.2023 with the intent to amicably resolve her marriage. She submits that the holiday was orchestrated by Applicant No. 2.

e. In response to the contentions of Ms. Kalyani Mangave regarding paragraph no. 11 of the undated complaint, Ms. Aarti Pandey submits that although the Respondent No. 2 in the complaint dated 30.12.2022 has stated that there was no meeting between Applicant No. 2 and Respondent No. 2 for one year from August 2021 to July 2022, the statement in the undated complaint must be interpreted as Respondent No. 2 met Applicant No. 2. Ms. Aarti Pandey, after perusing the FIR/complaint dated 30.12.2025, fairly states that such a contention is missing from the FIR/complaint dated 30.12.2025.

f. With reference to the decisions relied upon by Ms. Kalyani Mangave, Ms. Aarti Pandey submits that all the decisions are based on the facts of the case and are not applicable to the case in hand. To clarify, she submits that all the cases are unique.

11. Perused the records with the assistance of the learned Advocates for the parties. The rival contentions now fall for consideration.

12. 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.

13. The allegations in the FIR, read with the evidence collected in support of the same, are that Respondent No. 2 was harassed and abused by Applicant No. 1 on petty domestic grounds, including taunting Respondent No. 2 for having given birth to a girl child and for not having brought sufficient gifts and a car for Applicant No. 2 at the time of marriage.

14. The allegation against Applicant No. 2 is of quarrelling with her, hurling abusive words, and hitting her at times. Applicant No. 2 was also keeping track of the WhatsApp, LinkedIn, and Instagram accounts of Respondent No. 2. According to Respondent No. 2, Applicant No. 2 was in Mohali for training from August 2021 to July 2022.

15. Respondent No. 2 has not described any instance, time, date, place, or way the alleged harassment occurred. Respondent No. 2 has not provided any details regarding harassment for dowry being meted out to her after her marriage. What exactly was uttered in the form of abuse is not stated.

16. Reference to the case of Respondent No. 2 in her complaint

dated 30.12.2022 and her case in the undated complaint (at Page Nos. 114 to 117 of the paper-book), would indicate inconsistencies and the Respondent No. 2, having glorified trivialities between her and Applicant No. 2.

a. Paragraph in the complaint dated 30.12.2022 :-

“ऑगस्ट 2021 माझे पती ट्रेनिंगसाठी मोहाली येथे गेले. त्यावेळी माझी आई माझ्या सोबत राहण्यासाठी पुणे येथे आली. माझे पती मला फोनवरून देखील त्रास देत असत. एका वर्षात तो एकदा देखील तो मला भेटायला आला नाही. जुलै 2022 मध्ये तो ट्रॅगवरून परत आला. त्यावेळी देखील त्याने माझ्याशी घगुती कारणावरून वाद घालु लागला. तसेच त्याने मला शिवीगाह करून, मारपीट केली. त्यानंतर एका आठवड्यात तो लगेच हैदराबाद येथे जाबसाठी निघून गेला. त्यानंतर तो एकदाही माझ्याकडे पुणे येथे आला नाही. नोव्हेंबर 2022 मध्ये माझे पती पुणे येथे आले.”

b. Paragraph No. 11 of the undated complaint (at Page Nos. 114 to 117 of the paper-book :-

“11. I went to my husband's home in Motihari with my younger brother on 15th March, 2022 to request him to improve the situation and take his responsibilities. He threatened me and my brother several times that day. My brother went back on the same day whereas I stayed there. Next day on 16th Raushan grabbed my neck and tried to choke me. This caused me to have severe seizure attack.”

17. FIR was registered on 30.12.2022. The photograph on page 59 of the paper-book, which Ms. Aarti Pandey does not dispute, shows Applicant No. 2, Respondent No. 2, and their minor daughter having a good time on an All-Terrain Vehicle, happily holidaying together on 29.01.2023.

18. Even if the allegations in the FIR and the material on record are taken as a true and correct depiction of the circumstances, they

indicate that tiffs and skirmishes between Applicant No. 2 and Respondent No. 2 are being given the garb of the ingredients of Section 498(A) of the IPC.

19. Records of the instant case do not indicate any specific period or instances when Respondent No. 2 was subjected to harassment by Applicant No. 1 (mother-in-law). The statements made by Respondent No. 2 regarding Applicant No. 1 in the complaint dated 30.12.2022 would be relevant, as extracted herein below :-

“लग्नानंतर मी माझ्या सासरी मोतीहारी येथे गेले. पहिल्या दिवसापासून माझी सासु, पती मला लग्नमध्ये कमी सामान दिले म्हणून मला जास देवू लागले. लग्नाच्यावेळी मी मुंबई येथे नोकरीस होते. तर माझे पती पुणे येथे सॉफ्टवेअर कंपनीमध्ये नोकरीस होते. ते त्यावेळी बाणेर येथे रहावयास होते. मी सुटीच्या दिवशी पुणे येथे त्यांच्याकडे येत असत. ऑगस्ट २०२० मध्ये पुणे येथे माझी बदली करून घेतली. त्यानंतर मी व माझ्या पतीने कोढवा येथे फ्लॅट भाड्याने घेतला व आम्ही दोघे एकत्र रहायला लागलो. काही दिवस माझा संसार चांगला झाला. नोव्हेंबर २०१९ मध्ये मी बाणेर येथे फ्लॅट घेतला होता. त्याचे डाउनपेमेंट आम्ही दोघांनी केले. परंतु सदर फ्लॅटचे कर्जचे हफते मी भरत आहे व भाड्याचे रक्कम तो घेत आहे. मी सप्टेंबर २०२० पासून ते ऑक्टोबर २०२० पर्यंत मी वेळावेळी एकुण चार लाख कर्ज घेतले. ते सर्व पैसे माझ्या पतीने त्याच्या अकाउंटवरून ट्रान्सफर करून घेतले. जानेवारी २०२१ मध्ये माझ्या सासु माला मिश्रा आमच्या घरी रहावयास आल्या. त्यावेळी मी पाच महिन्यांची प्रेगनेंट होते. माझी हायरिस्क प्रेगनेंसी असल्याने मला डॉक्टरांनी पूर्ण विश्रांतीचा सल्ला दिला होता. त्यावेळी माझे पती व सासु मला लिगनिदार चाचणीसाठी माझ्यावर दबाव आणू लागले. परंतु मी त्यास नकार दिला. तेव्हापासून माझे पती व सासु मला लहान लहान कारणावरून जास देवू लागले. मी काम करू शकत नसल्याने ते मला घालून पालून बोलू लागले. तसेच लग्नमध्ये कमी हुंडा दिला. लग्नमध्ये गाडी दिली नाही. परंतु मी सर्व हे सहन करत असे. दिनांक ०१/०५/२०२१ रोजी माझी डीलीव्हरी झाली व मी एका मुलीला जन्म दिला. माझे पती, सासु माझ्यावर खूप नाराज झाले. त्यावेळी पासून ते मला अधिकच बोलू लागले. मला त्यांचा जास असह्य होवू लागला. म्हणून मी सदर गोष्ट माझ्या आई

वडीलांना सांगितली. माझे आई वडील पुणे येथे आले व त्यांनी माझ्या सासुला व पतीला समजावून सांगितले. परंतु त्यांच्यामध्ये कोणताही फरक पडला नाही.”

20. “Cruelty” simpliciter is not sufficient to constitute the offence under section 498(A) of the IPC. It must be done with the intention to cause grave injury, to drive the victim to commit suicide, or to inflict grave injury on herself. The allegations in the FIR and the material forming part of the charge sheet, regarding harassment for dowry, are general, omnibus, and vague, and wholly insufficient to constitute cruelty within the meaning of section 498(A) of the IPC. Applicant No. 1 is dragged into a crime without any reason.

21. In the case of ***Kahkashan Kausar alias Sonam And Others v/s. State of Bihar and Others***³, the Hon’ble Supreme Court in paragraph nos. 10 to 17 has observed as follows :-

“10. Having perused the relevant facts and contentions made by the appellants and respondents, in our considered opinion, the foremost issue which requires determination in the instant case is whether allegations made against the appellant in-laws are in the nature of general omnibus allegations and therefore liable to be quashed?

11. Before we delve into greater detail on the nature and content of allegations made, it becomes pertinent to mention that incorporation of Section 498-AIPC was aimed at preventing cruelty committed upon a woman by her husband and her in-laws, by facilitating rapid State intervention. However, it is equally true, that in recent times, matrimonial litigation in the country has also increased significantly and there is a greater disaffection and friction surrounding the institution of marriage, now, more than ever. This has resulted

3. (2022)6 Supreme Court Cases 599.

in an increased tendency to employ provisions such as Section 498-AIPC as instruments to settle personal scores against the husband and his relatives.

12. *This Court in its judgment in Rajesh Sharma v. State of U.P. [Rajesh Sharma v. State of U.P., (2018) 10 SCC 472 : (2019) 1 SCC (Cri) 301] , has observed : (SCC pp. 478-79, para 14)*

“14. Section 498-A was inserted in the statute with the laudable object of punishing cruelty at the hands of husband or his relatives against a wife particularly when such cruelty had potential to result in suicide or murder of a woman as mentioned in the Statement of Objects and Reasons of Act 46 of 1983. The expression “cruelty” in Section 498-A covers conduct which may drive the woman to commit suicide or cause grave injury (mental or physical) or danger to life or harassment with a view to coerce her to meet unlawful demand. [Explanation to Section 498-A.] It is a matter of serious concern that large number of cases continue to be filed under Section 498-A alleging harassment of married women. We have already referred to some of the statistics from the Crime Records Bureau. This Court had earlier noticed the fact that most of such complaints are filed in the heat of the moment over trivial issues. Many of such complaints are not bona fide. At the time of filing of the complaint, implications and consequences are not visualised. At times such complaints lead to uncalled for harassment not only to the accused but also to the complainant. Uncalled for arrest may ruin the chances of settlement.”

13. *Previously, in the landmark judgment of this Court in Arnesh Kumar v. State of Bihar [Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273 : (2014) 3 SCC (Cri) 449] , it was also observed : (SCC p. 276, para 4)*

“4. There is a phenomenal increase in matrimonial disputes in recent years. The institution of marriage is

greatly revered in this country. Section 498-AIPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-AIPC is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In quite a number of cases, bedridden grandfathers and grandmothers of the husbands, their sisters living abroad for decades are arrested.”

14. Further in Preeti Gupta v. State of Jharkhand [Preeti Gupta v. State of Jharkhand, (2010) 7 SCC 667 : (2010) 3 SCC (Cri) 473] , it has also been observed : (SCC pp. 676-77, paras 32-36)

“32. It is a matter of common experience that most of these complaints under Section 498-AIPC 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 is also a matter of serious concern.

33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under Section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to

the best of their abilities to ensure that social fibre, peace and tranquillity of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

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 relations.

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinised with great care and circumspection.

36. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of an amicable settlement altogether. The process of suffering is extremely long and painful.”

15. In *Geeta Mehrotra v. State of U.P.* [*Geeta Mehrotra v. State of U.P.*, (2012) 10 SCC 741 : (2013) 1 SCC (Civ) 212 : (2013) 1 SCC (Cri) 120] it was observed : (SCC p. 749, para 21)

*“21. It would be relevant at this stage to take note of an apt observation of this Court recorded in *G.V. Rao v. L.H.V. Prasad* [*G.V. Rao v. L.H.V. Prasad*, (2000) 3 SCC 693 : 2000 SCC (Cri) 733] wherein also in a matrimonial dispute, this Court had held that the High Court should have quashed the complaint arising out of a matrimonial dispute wherein all family members had been roped into the matrimonial litigation which was quashed and set aside. Their Lordships observed therein with which we entirely agree that : (SCC p. 698, para 12)*

‘12. ... There has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their “young” days in chasing their cases in different courts.’

The view taken by the Judges in this matter was that the courts would not encourage such disputes.”

16. Recently, in *K. Subba Rao v. State of Telangana* [*K. Subba*

Rao v. State of Telangana, (2018) 14 SCC 452 : (2019) 1 SCC (Cri) 605] , it was also observed that : (SCC p. 454, para 6)

“6. ... The courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out.”

17. The abovementioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of Section 498-AIPC 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.”

22. The Hon’ble Supreme Court in the case of ***Dara Lakshmi Narayana and Others*** (*supra*), in paragraph nos. 27 & 29 to 31 has held as follows :-

“27. A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognised fact, borne out of judicial experience, that there is often a tendency to implicate all the members of the husband's family when domestic disputes arise out of a matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. Courts must exercise caution in such cases to

prevent misuse of legal provisions and the legal process and avoid unnecessary harassment of innocent family members. In the present case, Appellants 2 to 6, who are the members of the family of Appellant 1 have been living in different cities and have not resided in the matrimonial house of Appellant 1 and Respondent 2 herein. Hence, they cannot be dragged into criminal prosecution and the same would be an abuse of the process of the law in the absence of specific allegations made against each of them.

29. *We find that the High Court noted that there were also allegations against Respondent 2 and matrimonial disputes are pending between the parties. Therefore, the High Court came to the conclusion that custodial interrogation of the appellants was not necessary and protected the personal liberty of the appellants directing the investigating officer not to arrest the appellants till the completion of the investigation and filing of the charge-sheet. Albeit the said findings and observations, the High Court ultimately refused to quash the criminal proceedings against the appellants.*

30. *The inclusion of Section 498-A IPC by way of an amendment was intended to curb cruelty inflicted on a woman by her husband and his family, ensuring swift intervention by the State. However, in recent years, as there have been a notable rise in matrimonial disputes across the country, accompanied by growing discord and tension within the institution of marriage, consequently, there has been a growing tendency to misuse provisions like Section 498-A IPC as a tool for unleashing personal vendetta against the husband and his family by a wife. Making vague and generalised allegations during matrimonial conflicts, if not scrutinised, will lead to the misuse of legal processes and an encouragement for use of arm twisting tactics by a wife and/or her family. Sometimes, recourse is taken to invoke Section 498-A IPC against the husband and his family in order to seek compliance with the unreasonable demands of a wife. Consequently, this Court has, time and again, cautioned against prosecuting the husband and his family in the absence of a clear prima facie case against them.*

31. We are not, for a moment, stating that any woman who has suffered cruelty in terms of what has been contemplated under Section 498-A IPC should remain silent and forbear herself from making a complaint or initiating any criminal proceeding. That is not the intention of our aforesaid observations but we should not encourage a case like as in the present one, where as a counterblast to the petition for dissolution of marriage sought by the first appellant, husband of the second respondent herein, a complaint under Section 498-A IPC is lodged by the latter. In fact, the insertion of the said provision is meant mainly for the protection of a woman who is subjected to cruelty in the matrimonial home primarily due to an unlawful demand for any property or valuable security in the form of dowry. However, sometimes it is misused as in the present case.”

23. The Hon’ble Supreme Court in the case of *Digambar and Another* (*supra*), in paragraph nos. 20 & 29 to 35 has observed as follows :-

“**20.** It would be appropriate to refer to a recent decision of this Court in Criminal Appeal 5199 of 2024 titled as *Dara Lakshmi Narayana v. State of Telangana*⁴. This court dealt with the ingredients of Section 498-A and whether the same are attracted through vague allegations raised by the complainant (wife). It was observed that:

“**17.** The issue for consideration is whether, given the facts and circumstances of the case and after examining the FIR, the High Court was correct in refusing to quash the ongoing criminal proceedings against the appellants arising out of FIR No. 82 of 2022 dated 01.02.2022 under Section 498A of the IPC and Sections 3 and 4 of the Dowry Act.

18. A bare perusal of the FIR shows that the allegations made by respondent No. 2 are vague and omnibus. Other than claiming that appellant No. 1 harassed her and that appellant Nos. 2 to 6 instigated

him to do so, respondent No. 2 has not provided any specific details or described any particular instance of harassment. She has also not mentioned the time, date, place, or manner in which the alleged harassment occurred. Therefore, the FIR lacks concrete and precise allegations.

19. *Further, the record reveals that respondent No. 2 on 03.10.2021 left the matrimonial house leading appellant No. 1 to file a police complaint on 05.10.2021. When the police officials traced her, respondent No. 2 addressed a letter dated 11.11.2021 to the Deputy Superintendent of Police, Thirupathur Sub Division requesting to close the complaint made by appellant No. 1. In the said letter, respondent No. 2 admitted that she left her matrimonial house after quarrelling with appellant No. 1 as she was talking to a person by name Govindan over the phone for the past ten days continuously. She further admitted that appellant No. 1 was taking good care of her. She also stated that she will not engage in such actions in future. Despite that, in 2021 itself, respondent No. 2 once again left the matrimonial house leaving appellant No. 1 and also her minor children.*

20. *Losing hope in the marriage, appellant No. 1 issued a legal notice to respondent No. 1 seeking divorce by mutual consent on 13.12.2021. Instead of responding to the said legal notice issued by appellant No. 1, respondent No. 2 lodged the present FIR 82 of 2022 on 01.02.2022 registered with Neredmet Police Station, Rachakonda under Section 498A of the IPC and Sections 3 and 4 of the Dowry Act.*

21. *Given the facts of this case and in view of the timing and context of the FIR, we find that respondent No. 2 left the matrimonial house on 03.10.2021 after quarrelling with appellant No. 1 with respect to her interactions with a third person in their marriage. Later she came back to her matrimonial house assuring to have a cordial relationship with appellant*

No. 1. However, she again left the matrimonial house. When appellant No. 1 issued a legal notice seeking divorce on 13.12.2021, the present FIR came to be lodged on 01.02.2022 by respondent No. 2. Therefore, we are of the opinion that the FIR filed by respondent No. 2 is not a genuine complaint rather it is a retaliatory measure intended to settle scores with appellant No. 1 and his family members.

22. Learned counsel for respondent No. 1 State contended that a prima facie case was made out against the appellants for harassing respondent No. 2 and demanding dowry from her. However, we observe that the allegations made by respondent No. 2 in the FIR seem to be motivated by a desire for retribution rather than a legitimate grievance. Further, the allegations attributed against the appellants herein are vague and omnibus.

23. Respondent No. 2 has not contested the present case either before the High Court or this Court. Furthermore, it is noteworthy that respondent No. 2 has not only deserted appellant No. 1 but has also abandoned her two children as well, who are now in the care and custody of appellant No. 1. The counsel for the appellants has specifically submitted that respondent No. 2 has shown no inclination to reestablish any relationship with her children.

.....

25. A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognised fact, borne out of judicial experience, that there is often a tendency to implicate all the members of the husband's family when domestic disputes arise out of a matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. Courts must exercise

caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessary harassment of innocent family members. In the present case, appellant Nos. 2 to 6, who are the members of the family of appellant No. 1 have been living in different cities and have not resided in the matrimonial house of appellant No. 1 and respondent No. 2 herein. Hence, they cannot be dragged into criminal prosecution and the same would be an abuse of the process of the law in the absence of specific allegations made against each of them.”

29. *It can thus be seen that this Court has held that when the allegations made in the FIR or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute a case against the accused, the High Court would be justified in quashing the proceedings. Further, it has been held that where the uncontroverted allegations in the FIR and the evidence collected in support of the same do not disclose any offence and make out a case against the accused, the Court would be justified in quashing the proceedings.*

30. *In the present case also, as discussed above, the facts when taken at face value, do not reveal any specific instance of cruelty committed by the appellants herein. In our view, only stating that cruelty has been committed by the appellants herein due to some reason, would not amount to the offence under Section 498-A of IPC being attracted. The next allegation regarding a specific incident relating to the miscarriage being caused by the appellants herein has also been discussed above. A bare perusal of the allegation and the analysis of the same when compared with the statement of the Doctor reveals that even if the allegations are accepted at the face value, it would not prima facie make out a case against the present appellants.*

31. *Furthermore, the complaint was lodged after the notice of Divorce was given by the complainant, wherein, there was not even a whisper of the allegation of the cruelty or the miscarriage caused by the appellants. The alleged*

incident took place in 2016, whereas the complaint was filed after the notice of Divorce was given by the complainant, i.e. in 2018. The latest alleged incident in the FIR is of the year 2016, wherein the most serious allegations under Sections 312 and 313 of the IPC is raised. The explanation for the delay in filing of the complaint given by the complainant is that she did not want to spoil the marital relations. However, she has herself stated that she began residing separately and had moved out of the matrimonial house. Further, she had sent the notice of Divorce on 15th May 2018. This would certainly mean that she believed that the marriage had broken down without there being any hope of reconciliation. It is difficult to believe that despite the complainant taking such drastic steps, she did not file the present FIR for another six months after the notice of Divorce was sent. Moreover, the notice of Divorce was completely silent about the allegations raised in the FIR which was subsequently filed. The notice of Divorce on the other hand contained allegations relating to the demand of money and jewellery from the complainant by the son of the appellants. It also contained vague allegations of physical assault inflicted by the son of the appellants. No allegation of cruelty or the miscarriage allegedly caused by the appellants was raised.

32. These facts lead us to conclude that the proceedings were initiated with an ulterior motive of pressurizing the son of the appellant herein to consent to the divorce according to the terms of the complainant and the proceedings were used as a weapon by the complainant in the personal discord between the couple.

33. It would again, be apposite to refer to the case of *Dara Lakshmi Narayana (supra)* wherein this Court has discussed the objective of Section 498-A of IPC and has also raised its concerns over the misuse of this Section in matrimonial disputes. This Court observed thus:

“28. The inclusion of Section 498A of the IPC by way of an amendment was intended to curb cruelty inflicted on a woman by her husband and his family, ensuring swift intervention by the State. However, in

recent years, as there have been a notable rise in matrimonial disputes across the country, accompanied by growing discord and tension within the institution of marriage, consequently, there has been a growing tendency to misuse provisions like Section 498A of the IPC as a tool for unleashing personal vendetta against the husband and his family by a wife. Making vague and generalised allegations during matrimonial conflicts, if not scrutinized, will lead to the misuse of legal processes and an encouragement for use of arm twisting tactics by a wife and/or her family. Sometimes, recourse is taken to invoke Section 498A of the IPC against the husband and his family in order to seek compliance with the unreasonable demands of a wife. Consequently, this Court has, time and again, cautioned against prosecuting the husband and his family in the absence of a clear prima facie case against them.

29. We are not, for a moment, stating that any woman who has suffered cruelty in terms of what has been contemplated under Section 498A of the IPC should remain silent and forbear herself from making a complaint or initiating any criminal proceeding. That is not the intention of our aforesaid observations but we should not encourage a case like as in the present one, where as a counterblast to the petition for dissolution of marriage sought by the first appellant-husband of the second respondent herein, a complaint under Section 498A of the IPC is lodged by the latter. In fact, the insertion of the said provision is meant mainly for the protection of a woman who is subjected to cruelty in the matrimonial home primarily due to an unlawful demand for any property or valuable security in the form of dowry. However, sometimes it is misused as in the present case.”

34. We therefore hold that the continuance of the criminal proceedings against the appellants would result in an abuse of

process of law.

35. *In the present case, the High Court has held that the allegations made by the complainant cannot be presumed to be false and whether they are believable or not will be examined by the Trial Court. We hold that this was an erroneous approach taken by the High Court as according to the principles laid down in the case of Bhajanlal (supra), the allegations levelled in the complaint should at the very least be given a prima facie consideration.”*

24. In addition to Section 498(A) of the IPC, the Applicants are also charged under Sections 504, 506 & 323 of the IPC.

25. Whoever intentionally insults and thereby gives provocation to any person intending or knowing it to be likely to break the public peace or commit any offence, is said to have committed the offence under Section 504 of the IPC.

The subject matter of the dispute is between the Applicant No. 2 (husband) and the Respondent No. 2 (wife). It is far-fetched to imagine that such a dispute would lead to a breach of public peace.

26. Section 506 of the IPC deals with punishment for criminal intimidation. Whoever threatens another with any injury to his person, reputation or property or to the person or reputation of anyone in whom that person is interested, with the intent to cause alarm to that person, is said to be criminally intimidating the other person.

There is no evidence of coercion, threat, or injury to

Respondent No. 2. There is nothing to show that the Applicants engaged in any willful conduct to suggest that Respondent No. 2 was subjected to harassment by the Applicants with a view to coercing her or any person related to her to meet any unlawful demand or property etc. It is improbable that the Applicants, for that matter, the Applicant No. 2, caused any threat to Respondent No. 2, considering the conduct of Respondent No. 2, holidaying with Applicant No. 2, as seen in the photograph (at page 59). The case set up by Respondent No. 2 nowhere satisfies the ingredients of Section 503 or, for that matter, 506 of the IPC.

27. Whoever voluntarily causes hurt as defined under Section 319 of the IPC, is liable to be punished under Section 323 of the IPC. “Hurt” is defined as “causing bodily pain, disease or infirmity to any person.” The allegations in the complaint or the evidence collected do not, prima facie, disclose the ingredients of either Section 319 or Section 323 of the IPC.

28. The Hon’ble Supreme Court in the case of ***Mohd. Wajid v/s. State of U.P.***⁴, in paragraph nos. 25 to 31 has observed as follows :-

“25. Chapter XXII IPC relates to criminal intimidation, insult and annoyance. Section 503 reads thus:

“503. Criminal intimidation.—Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the

4. (2023)20 SCC 219.

means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

Illustration

A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.”

26. Section 504 reads thus:

“504. Intentional insult with intent to provoke breach of the peace.—Whoever intentionally insults and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

27. Section 506 reads thus:

“506. Punishment for criminal intimidation.—Whoever commits, the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

if threat be to cause death or grievous hurt, etc.—and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or

with both.”

28. An offence under Section 503 has the following essentials:

(1) Threatening a person with any injury;

(i) to his person, reputation or property; or

(ii) to the person, or reputation of any one in whom that person is interested.

(2) The threat must be with intent;

(i) to cause alarm to that person; or

(ii) to cause that person to do any act which he is not legally bound to do as the means of avoiding the execution of such threat; or

(iii) to cause that person to omit to do any act which that person is legally entitled to do as the means of avoiding the execution of such threat.

29. Section 504 IPC contemplates intentionally insulting a person and thereby provoking such person insulted to breach the peace or intentionally insulting a person knowing it to be likely that the person insulted may be provoked so as to cause a breach of the public peace or to commit any other offence. Mere abuse may not come within the purview of the section. But, the words of abuse in a particular case might amount to an intentional insult provoking the person insulted to commit a breach of the public peace or to commit any other offence. If abusive language is used intentionally and is of such a nature as would in the ordinary course of events lead the person insulted to break the peace or to commit an offence under the law, the case is not taken away from the purview of the section merely because the insulted person did not actually break the peace or commit any offence having exercised self-control or having been subjected to abject terror by the offender.

30. *In judging whether particular abusive language is attracted by Section 504 IPC, the court has to find out what, in the ordinary circumstances, would be the effect of the abusive language used and not what the complainant actually did as a result of his peculiar idiosyncrasy or cool temperament or sense of discipline. It is the ordinary general nature of the abusive language that is the test for considering whether the abusive language is an intentional insult likely to provoke the person insulted to commit a breach of the peace and not the particular conduct or temperament of the complainant.*

31. *Mere abuse, discourtesy, rudeness or insolence, may not amount to an intentional insult within the meaning of Section 504 IPC if it does not have the necessary element of being likely to incite the person insulted to commit a breach of the peace or an offence and the other element of the accused intending to provoke the person insulted to commit a breach of the peace or knowing that the person insulted is likely to commit a breach of the peace. Each case of abusive language shall have to be decided in the light of the facts and circumstances of that case and there cannot be a general proposition that no one commits an offence under Section 504 IPC if he merely uses abusive language against the complainant. In King Emperor v. Chunnibhai Dayabhai [King Emperor v. Chunnibhai Dayabhai, (1902) 4 Bom LR 78] , a Division Bench of the Bombay High Court pointed out that:*

“To constitute an offence under Section 504 IPC it is sufficient if the insult is of a kind calculated to cause the other party to lose his temper and say or do something violent. Public peace can be broken by angry words as well as deeds.”

(emphasis supplied)”

29. The order taking cognizance, which the Applicant has impugned in this Application, is a “Rubber Stamped Cognizance” without assigning any reasons. The order taking cognizance dated

28.08.2023, passed by the Magistrate, reads as follows:

“Perused the record u/s. 173 of the Code of Criminal Procedure. Considering the material, sufficient ground exist to issue process against the accused for the offence punishable under Sections 498(A), 506, 323 & 504 of the IPC.”

30. The Hon’ble Supreme Court in the case of **Pawan Kumar Sharma v/s. State of Uttaranchal⁵**, in paragraphs 2 to 6 has held as under :-

“2. In the State of Uttaranchal (now known as State of Uttarakhand) there exists a strange practice. The Magistrates take cognizance of offences and issue summons in terms of Section 202 of the Code of Criminal Procedure on “rubber stamped” orders.

3. A distinction exists between an order taking cognizance and an order issuing process. Before process is issued, the Court concerned must apply its judicial mind. It may, not only apply its mind as to whether on the basis of the allegations made in the complaint petition and the statements made by the complainant and his witnesses, a prima facie case has been made out for issuing processes but also must consider as to whether a case has been made out in terms of proper provisions of the Penal Statute for issuance of process for alleged commission of the offences vis-a-vis, the allegations made.

4. Appellant herein seriously contend that even if the submissions made in the complaint petition are given face value and taken to be correct in their entirety, no case has been made out for taking cognizance under Section 304(B) of the I.P.C.

5. In State of Karnataka v. Pastor P. Raju (2006) 6 SCC 728, this Court has clearly made out a distinction between an

5. 2007 SCC OnLine SC 1599.

order taking cognizance of an offence and an order of issuance of process stating:

“13. It is necessary to mention here that taking cognizance of an offence is not the same thing as issuance of process. Cognizance is taken at the initial stage when the Magistrate applies his judicial mind to the facts mentioned in a complaint or to a police report or upon information received from any other person that an offence has been committed. The issuance of process is at a subsequent stage when after considering the material placed before it the court decides to proceed against the offenders against whom a prima facie case is made out.”

6. We, therefore, are of the opinion that impugned judgment cannot be sustained. It is set aside accordingly. The appeal is allowed.”

31. In the case of ***State of Karnataka and Another v/s. Pastor P. Raju***⁶, the Hon’ble Supreme Court, in paragraph no. 13, has distinguished between an order taking cognizance of an offence and an order issuing process :-

“13. It is necessary to mention here that taking cognizance of an offence is not the same thing as issuance of process. Cognizance is taken at the initial stage when the Magistrate applies his judicial mind to the facts mentioned in a complaint or to a police report or upon information received from any other person that an offence has been committed. The issuance of process is at a subsequent stage when after considering the material placed before it the court decides to proceed against the offenders against whom a prima facie case is made out.”

6. (2006)6 SCC 728.

32. The Hon'ble Supreme Court in the case of ***Sunil Bharti Mittal v/s. Central Bureau of Investigation***⁷, in paragraphs 51 to 53 has held as follows:

“51. On the other hand, Section 204 of the Code deals with the issue of process, if in the opinion of the Magistrate taking cognizance of an offence, there is sufficient ground for proceeding. This section relates to commencement of a criminal proceeding. If the Magistrate taking cognizance of a case (it may be the Magistrate receiving the complaint or to whom it has been transferred under Section 192), upon a consideration of the materials before him (i.e. the complaint, examination of the complainant and his witnesses, if present, or report of inquiry, if any), thinks that there is a prima facie case for proceeding in respect of an offence, he shall issue process against the accused.

52. A wide discretion has been given as to grant or refusal of process and it must be judicially exercised. A person ought not to be dragged into court merely because a complaint has been filed. If a prima facie case has been made out, the Magistrate ought to issue process and it cannot be refused merely because he thinks that it is unlikely to result in a conviction.

53. However, the words “sufficient ground for proceeding” appearing in Section 204 are of immense importance. It is these words which amply suggest that an opinion is to be formed only after due application of mind that there is sufficient basis for proceeding against the said accused and formation of such an opinion is to be stated in the order itself. The order is liable to be set aside if no reason is given therein while coming to the conclusion that there is prima facie case against the accused, though the order need not contain detailed reasons. A fortiori, the order would be bad in law if the reason given turns out to be ex facie incorrect.”

7. (2015)4 Supreme Court Cases 609.

33. As per the above-mentioned pronouncements, the Hon'ble Supreme Court has held that taking cognizance is a judicial act that requires the application of the mind. The Hon'ble Supreme Court has deprecated the practice of taking cognizance through "Rubber Stamp Cognizance". Thus, cognizance taken by the Magistrate through a Rubber Stamped Order is illegal, warranting interference by this Court.

34. The ingredients of the offences under Sections 498(A), 506, 323 & 504 of the IPC are not established. The present case squarely falls within the principles laid down by the Hon'ble Supreme Court in the case of **Bhajan Lal** (*supra*) for the exercise of powers under Section 528 of the BNSS to quash the impugned FIR, the charge-sheet arising out of the said FIR, and the order taking cognizance, so as to prevent abuse of the process of law.

35. Criminal Application is therefore allowed in terms of the prayer clauses (i) & (ii) and the amended prayer clauses (viii) & (ix). Consequently, the First Information Report bearing No. 1299 of 2022, dated 30.12.2022, registered with the Kondhwa Police Station, District-Pune, for the offences punishable under Sections 498(A), 506, 504 & 323 read with Section 34 of the Indian Penal Code, 1860; the charge-sheet arising out of the said FIR, registered as Regular Criminal Case No. 1194 of 2023, pending before the Judicial Magistrate First Class, Pune and the order taking cognizance, dated 28.08.2023, passed by the Judicial Magistrate First Class, Pune in RCC No. 1194 of 2023, are quashed.

36. Criminal Application No. 1169 of 2025 is disposed of in the above terms. In the facts and circumstances of the present case, there shall be no order as to costs.

[ASHWIN D. BHOBE, J.]

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KOTAWADEKAR

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GITALAXMI KRISHNA
KOTAWADEKAR
Date: 2026.02.18
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