



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL) NO.29/2024

1. Tanvir Ullah Khan Sana Ullah
Khan, Aged 42 years, Occu. Business.
2. Sana Ullah Khan Kasam Khan,
Aged 70 years, Occu. Business,
3. Shama Parveen Sana Ullah Khan,
Aged 60 years, Occu. Household,
4. Raheman Khan Sana Ullah Khan,
Aged 40 years, Occu. Business,
5. Mazhar Ullah Khan Sana Ullah Khan,
Aged 36 years, Occu. Business,
6. Shaziya Tabassum Sana Ullah Khan,
Aged 31 years, Occu. Household,
7. Bismillah Bi Shaikh Shahib,
Aged 45 years, Occu. Household,
All Applicants No. 1 to 7 are R/o
Mujawar Pura, Barshitakli, Tah-
Barshitakli, District Akola. (M.S.)
8. Shahista Parveen Shaikh Ashraff
Aged 47 years, Occu. Household,
R/o 7-8 New Satara file, Ajanta
Lodge Bhusawal, District Jalgaon, (M.S.)

... APPLICANTS

...VERSUS...

1. State of Maharashtra Through
Police Station Officer, P.S. Karanja
(Lad), District Washim.
2. Sanobar Parveen W/O Tanvir Ullah
Khan, Aged 25 years, Occu,
Household, R/o C/o Asad Khan
Bismillah Khan, At Ziya Colony,
Karanja Lad, Tq. Karanja, District
Washim

...NON-APPLICANTS

Shri M.I. Dhatrak, Advocate for applicants
Ms Soniya Thakur, APP for non-applicant No.1/State
Shri Nilesh D. Borkar, Advocate for non-applicant No.2

CORAM : PRAVIN S. PATIL, J.

DATED : 19.01.2026

ORAL JUDGMENT

. Heard. **Admit.** With the consent of learned Counsel for
both the parties, the application is taken for final disposal.

2. The applicants herein are the husband, father-in-law,
mother-in-law, brother-in-law and sister-in-law of non-applicant
No.2. All these applicants are challenging Regular Criminal Case
No.44/2024 pending on the file of Judicial Magistrate First Class,
Karanja arising out of Crime No.0771/2023 registered with Police

Station, Karanja, for the offences punishable under Sections 498-A, 323, 506 and 34 of the Indian Penal Code.

3. It is the submission of the present applicants that the marriage between applicant No.1 and non-applicant No.2 was solemnized on 09.05 2018. Both have resided together for a period of 4 years and, thereafter, on 22.07.2023, non-applicant No.2 has left the company of applicants' family. After that non-applicant No.2, on 25.07.2023 i.e. near about after a period of 1 year, filed proceedings arising out of the Protection of Women from Domestic Violence Act, 2005, before learned Judicial Magistrate First Class, Karanja. It is also pointed out that applicant No.1 has filed the proceedings for the Restitution of conjugal rights, before the Civil Judge Junior Division, Barshitakli, on 18.09.2023.

4. It is the submission of the applicants that there is matrimonial discord since 2022. However, the First Information Report is lodged on 01.12.2023 that too after filing of the proceedings under the Protection of Women from Domestic Violence Act, 2005 and Restitution of conjugal rights filed by the applicants. Hence, *prima facie*, the complaint lodged by the non-

applicant No.2 is with an oblique motive to involve all the family members of the husband in the criminal offence and, therefore, indulgence of this Court is necessary in the matter.

5. Learned APP and respondent No.2 strongly opposed the application. According to them, the perusal of the compliant lodged by non-applicant No.2 clearly established that she was ill-treated by the applicants during her co-habitation with them. It is also seen that the allegations made are precise in nature and therefore, considering this specific complaint lodged by the non-applicant No.2, the offence is made out under Section 498-A of the Indian Penal Code and, therefore, it is not a fit case for any indulgence of this Court in the matter.

6. In the light of submissions made by the learned Counsel for both sides before this Court, it would be relevant to consider Section 498-A of IPC. The bare perusal of this provision shows that vide its Explanation cruelty means any willful conduct which is of such a nature as is likely to drive a woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of a woman. As per Explanation (b)

harassment is done with a view to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand. As such, while deciding these allegations, this Court has to first look into whether the cruelty which is allegedly falls in the explanation provided under Section 498-A of IPC.

7. It is also pertinent to note that the Hon'ble Supreme Court of India and this Court has experienced that there is a tendency of implicating the husband and his relatives in the criminal offence on vague and omnibus allegations. Therefore, this Court is required to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases.

8. To attract the offence, it is necessary that the allegations levelled against the Applicant should be concrete and precise. If it is found that the allegations are made without providing any specific details or describing any particular instance of harassment, in such cases, where Informant did not mention

date, time and place or manner in which the alleged harassment is occurred, the Court should be slow while holding that offence is made out against the applicants.

9. It is also held by the Hon'ble Supreme Court in the catena of cases that mere trivial irritations, quarrels between spouses which happen in day- to-day married life not to be considered as cruelty. The foundation of a sound marriage is tolerance, adjustment and respecting each other. Therefore, petty quibbles, trifling differences are general and should not be exaggerated and blown out of proportion to destroy the marriage.

10. In support of this submission, it will be relevant to rely upon the Judgments of the Hon'ble Supreme Court of India in the cases of - (i) *Dara Lakshmi Narayana & Others V/s State of Telangana & Another*, 2025(3) SCC 735; (ii) *Preeti Gupta and Another V/s State of Jharkhand and Another*, (2010) 7 Supreme Court Cases 667; and (iii) *Achin Gupta V/s State of Haryana and Another*, AIR 2024 SC 2548.

11. In light of this legal position, I have gone through the allegations levelled by non-applicant No.2 against applicants. According to her, she was asked by applicants to perform all housework, she was taunted on the ground of her looking, demand of amount from her parents to start the hotel business of husband and treated her as a domestic servant in the house.

12. Non-applicant No.2 has raised one of the allegations that family members of the applicants were insisting that she should give her child in adoption to applicant No.8 and when she denied to do so, she was ill-treated by the applicants in the matter. It is pertinent to note that applicant No.8, who is sister-in-law of non-applicant No.2, residing at Bhusawal, District Jalgaon. It is nowhere demonstrated that how this applicant No.8 approached to the family members, stating that the non-applicant No.2 insisted to give in adoption her child to her. As such, in absence of precise allegation and without any corroborative substance in the matter, such vague allegations cannot be accepted in the matter.

13. It is also pertinent to note that this allegation seems to be made in the year 2023. According to the applicant, the non-

applicant No.2 left the company of family on 22.07.2022. Therefore, *prima facie*, this allegation raised by non-applicant No.2 does not seem to be trustworthy in the matter.

14. The second allegation is regarding the demand of Rs.5,00,000/- for the hotel business. However, it is again not clarified as to when such demand was made by the applicants in the matter to her. It is pertinent to note that the demand, which was made, is for starting a business and not towards dowry of marriage in the matter. Here again, there are no precise and trustworthy submission is made by non-applicant No.2. Such allegations are general in nature and cannot be believed to be true in absence of any concrete proof available on record.

15. It is well settled position of law as laid down by the Hon'ble Supreme Court of India that in such cases, there should be specific time, date and description of the instances should be recorded by the complainant. If the allegations are found to be fake and omnibus in nature, then the duty is casted upon the Court to look into the matter and if required read between the lines as to

whether there was oblique motive of the complaint while making such allegations in the matter.

16. It is pertinent to note that here in the present case, after filing of divorce proceedings and after receipt of the notice under Section 9 of the Restitution of Conjugal Rights, the First Information Report is lodged. In such case, a possibility cannot be ruled out that while drafting the complaint, every care is taken and if required the assistance of legal expert is taken in such matter. Therefore, it is very difficult to find out the truth in the matter. While dealing with such cases, the overall factual position is required to be taken into consideration and, thereafter, attempt has to be made to find out the truth. In such cases, this Court has to take a pragmatic approach while deciding the proceedings arising out of matrimonial dispute.

17. In the present case, the applicant has relied upon the judgment of the Hon'ble Supreme Court of India reported in *Kahkashan Kausar alias Sonam and others Vs. State of Bihar and others, 2022 (6) SCC 599*, wherein the Hon'ble Supreme Court has held that it is nowadays, a tendency of a complainant particularly of

wife of implicating relatives of the husband on fake allegations. In such cases, in absence of specific allegations, the relatives of the husband cannot be implicated in a matrimonial dispute.

18. In light of this factual and legal position and perusal of the complaint, I found that there are only allegations specific in nature against the husband. The allegations against the applicant Nos.2 to 8 are general, vague and omnibus in nature. So also, it is clear that after filing of certain cases against each other, complaint is lodged by non-applicant No.2. In the circumstances, in my opinion, the offence under Section 498A is not made out against applicant Nos.2 to 8 in the matter. Continuing criminal proceedings against them is nothing but abuse of process of law. Therefore, I proceed to pass the following order:

ORDER

- i) The application is partly allowed.
- ii) Regular Criminal Case No.44/2024 pending on the file of Judicial Magistrate First Class, Karanja, arising out of Crime No.0771/2023 and charge-sheet No.16/2024, registered with Police Station, Karanja, for the offences punishable under Sections 498-A,

323, 506 and 34 of the Indian Penal Code is hereby quashed and set aside against applicant Nos.2 to 8.

iii) Regular Criminal Case No.44/2024, shall proceed further against the applicant No.1.

iv) It is made clear that the case against the applicant No.1 be decided on its own merit, without prejudice of any observation made by this Court in the matter.

19. The application stands disposed of in above terms. No order as to the costs.

(PRAVIN S. PATIL, J.)

R.S. Sahare