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

CRIMINAL APPLICATION (APL) NO.579 OF 2024

1. Mohammad Iqbal s/o Mohammad Ismail (Khokar) (Husband)
Age : 38 Years,
Occupation : Labour,
R/o. Near AMC Hospital,
Behind Railway Station,
Taluka, District Aurangabad.
2. Bano Bee @ Rahmat Bano Qureshi
w/o Mohammad Ismail Qureshi
(Mother-in-law), Age 56 years,
Occupation : Households,
R/o As above.
3. Noorjahan Mohammad Anwar Qureshi,
(Sister-in-law), Age : 34,
Occupation : Households,
R/o. Near AMC Hospital, Silk Mill Colony,
Taluka, District Aurangabad.
4. Mohammad Shoeb Mohammad Ismail,
(Brother-in-law)
Age : 34 Years, Occupation : Business,
R/o. H. No.6-13-19, Near AMC Hospital,
Taluka, District Aurangabad.
5. Sana Parveen @ Sana Qureshi (Sister-in-law)
Age 30 Years, Occupation Households,
R/o. Near AMC Hospital,
Taluka, District Aurangabad.
6. Farzana Begum @ Farzana Ismail Mohammad,
(Sister-in-law) Age : 31 Years,
Occupation : Households,
R/o. As above.
7. Rubeena Sameer @ Rubeena Bano
(Sister-in-law) Age : 34 Years,
Occupation : Households,
R/o. 13-1-22, Silk Mill Colony,
Aurangabad.

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8. Mohammad Shafeeq
 Mohammad Majeed (Khokar)
 (Uncle-in-law)
 Age : 44 Years, Occupation : Business,
 H. No.5-28-116, Near Railway
 Station, Aurangabad. **APPLICANTS/Ori.Accused**

// VERSUS //

1. State of Maharashtra,
 Through Police Station Officer,
 Ramdas Peth, Police Station, Akola.
 [Copy to be served upon P.P., at the
 Hon'ble High Court of Judicature,
 Bombay, Bench at Nagpur]
2. Shahida Parvin Mohammad Iqbal
 (Wife), Age : 28 Years,
 Occupation: Tailoring and Parlor, (R2 is org. Informant)
 R/o. Near Madina Pan House,
 Muzaffar Nagar, Akola.**NON-APPLICANTS**

 Mr. Gaurav Khond, Advocate h/f Mr. D. M. Khandait, Advocate
 for applicants.

Mr. K. R. Lule, APP for non-applicant No.1/State.

Mr. A. S. Dhage, Advocate for the non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.**DATED : 10/03/2026****ORAL JUDGMENT :**

1. Heard.
2. **Admit.**
3. Heard finally with the consent of the learned Counsel
 for the applicants, learned APP for the State and learned counsel
 for the non-applicant No.2.

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4. By this application, the applicants who are the husband and the nearest relatives of the husband are seeking quashing of the FIR in connection with Crime No.551/2022 registered with Police Station Ramdas Peth, Akola for the offence punishable under Sections 498A, 323 read with Section 34 of the Indian Penal Code and consequent proceeding arising out of the same bearing RCC No. 1598/2022 pending before the learned Judicial Magistrate First Class, Akola.

5. Heard learned counsel for the applicants, who submitted that the crime is registered on the basis of a report lodged by the non-applicant No.2 on an allegation that her marriage was performed with the applicant No.1 in the year 2017. After marriage, she resumed cohabitation at the house of the present applicants, but after two months of marriage, all the applicants started ill-treating her physically as well as mentally. It is further alleged that her husband was having illicit relations with another lady and he has also sold out her golden ornaments worth of Rs.2,00,000/-. After four months of marriage, the applicant No.1 has dropped her at her parent's house. She has delivered a female child, on that count also she was assaulted by the present applicant No.1. On the basis of the said report, police have registered the crime. He submitted that as far as the applicant Nos.2 to 8 are concerned, except the reference of their names, there is absolutely no allegations against them by stating

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any specific instance, no overt act is attributed to them to attract the offence under Section 498A and to attract the cruelty under Section 498A there has to be some overt act or the wilful conduct on the part of the applicant Nos. 2 to 8, which is absent in the present case. In view of that, the application deserves to be allowed. He also submitted that even accepting the allegation against the applicants by no stretch of imagination, it can be said that the offence is made out against the applicant No.1.

6. Learned APP for the State and learned Counsel for the complainant strongly opposed the contention and submitted that the recitals of the FIR itself is sufficient to constitute the offence. In view of that, the application deserves to be rejected.

7. On hearing both sides and on perusal of the entire recitals of the FIR and the investigation papers admittedly, except the reference of the names of the applicant Nos.2 to 8 there is no overt act or the willful conduct is attributed to them. Only general, omnibus, and baseless allegations is levelled by referring their names.

8. Now it is settled that except the reference of the names of the applicants without assigning any specific role or without narrating specific instance would not be sufficient to attract the offence punishable under Section 498A of IPC. For the purpose of the Section of cruelty any willful conduct which is

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of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health whether mental or physical of the woman is required to constitute the offence. There is no doubt that the object of introducing Chapter XXA containing Section 498A of the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. In any event the willful act or conduct ought to be the proximate cause in order to bring home the charge under Section 498A of IPC.

9. In view of that, in absence of the any overt act or willful conduct on the part of the present applicant Nos.2 to 8, no offence is made out against them under Section 498A of IPC. In view of that, application deserves to be allowed partly. Accordingly, I proceed to pass following order:

ORDER

(i) The application is **allowed partly**.

(ii) The FIR in connection with Crime No.551/2022 registered with Police Station Ramdas Peth, Akola for the offence punishable under Sections 498A, 323 read with Section 34 of the Indian Penal Code and consequent proceeding arising out of the same bearing RCC No.1598/2022 pending before the learned Judicial Magistrate First Class, Akola, are

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hereby quashed and set aside against the present applicant Nos.2 to 8.

(iii) The prayer of the applicant No.1 **Mohammad Iqbal s/o Mohammad Ismail (Khokar)** for quashing of the FIR, is hereby rejected.

The application is disposed of.

(URMILA JOSHI-PHALKE, J)