



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

CRIMINAL APPLICATION (APL) NO. 1677 OF 2024

APPLICANT

- :-**
- 1) Arshad s/o Hannan Shaikh (Husband)
Aged 32 years, Occu: Agriculturist.
 - 2) Hannan s/o Rasul Shaikh,
(Father-in-law)
Aged 59 years, Occu: Agriculture.
 - 3) Noorjabai w/o Hannan Shaikh,
(Mother-in-law)
Aged 52 years, Occu: Nil.
 - 4) Sakinabai w/o Salmankha-Pathan @
Sakinabai d/o Hannan Shaikh,
(Sister-in-law)
Aged: 32 years, Occu: Nil.
 - 5) Suban s/o Hannan Shaikh,
(Brother-in-law)
Aged:38 Years, Occu: Agriculturist.
 - 6) Rukhsana w/o Suban Shaikh,
(Sister-in-law- w/o Subhan)
Aged 30 years, Occu: Nil.
 - 7) Smt. Madinabai w/o Wahed Shaikh,
(Father-in-law's aunty)
Aged 75 years, Occu: Nil.
Sr. No.1 to 7 R/o Post Malkapur Pangra,
Taluka-Sindhakhed Raja,
District Buldhana.
 - 8) Lukman s/o Hannan Shaikh,
(Brother-in-law)
Aged 35 Years, Occu: Lawyer

- 9) Farhana w/o Lukman Shaikh,
(Sister-in-law),
Aged 32 years, Occu: Nil.
Sr. No.8 and 9 R/o 8/4, Behind
Telephone Bhawan, Ajabnagar, Near
Kranti Chaukh Fly-over, Chatrpati
Sambhajinagar (Aurangabad)

..VERSUS..

**NON-
APPLICANTS**

- :- 1) State of Maharashtra,
Through PSO, Raipur, District
Buldhana.
- 2) Smt. Parvin @ Pari w/o Arshad Shaikh
@ Parvin d/o Yusufkha Pathan,
Aged 24, Occu: Private R/o. Antrikoli,
Tahasil- Chikhali, District buldhana.

Mr. M.V. Rai, counsel for applicants.

Mr A.M. Ghogare, APP for non-applicant No.1/State.

Ms Aastha Rakesh Sharma, counsel (appointed) for non-applicant No.2.

CORAM : PRAVIN S. PATIL, J.

DATE : 28/01/2026

ORAL JUDGMENT :

1. Heard. **Rule.** Rule made returnable forthwith. By consent of learned counsel Mr. M.V. Rai, for applicants, Mr A.M. Ghogare, learned APP for non-applicant No.1/State and Ms. Aastha Rakesh Sharma, learned appointed counsel for non-applicant No.2, the application is taken up for final hearing at the stage of admission.

2. By the present application, the applicants are seeking quashment of proceedings registered against them vide Crime No. 178

of 2024 for the offence punishable under Sections 498-A, 323, 504 and read with Section 34 of the Indian Penal Code, 1860, registered with Police Station Raipur, District Buldhana.

3. The applicants has pointed out that complaint came to be registered against them on 20/08/2024, for the harassment caused to the present respondent No.2 during the period from 13/05/2018 to 05/01/2021. Therefore, in view of Section 468 of the Code of Criminal Procedure, 1973, the complaint is barred by limitation. Secondly, it is contended that the allegations which are levelled against the present applicants are vague and omnibus in nature and do not satisfy the ingredients of “cruelty” as explained in clause (a) and (b) of Section 498-A of the Indian Penal Code. Hence, on both these grounds, the criminal proceedings registered against the present applicants are liable to be quashed and set aside.

4. Mr. A.M. Ghoghare, learned APP strongly opposed the present application and contended that Section 468 of the Code of Criminal Procedure, is applicable when the Court took a cognizance, and there is no bar to register the complaint against the applicants at the instance of respondent No.2. It is further submitted that after investigation, if the Investigating Officer finds substance in the allegations, then only charge-sheet would be filed. At this stage, according to the learned APP, the applicants cannot claim the benefit of Section 468 Cr.P.C. So also, it is pointed out that there are specific allegations regarding demand of Rs. 5,00,000/- from the family of respondent No. 2. Hence, the offence is made out under Section 498-A, 323, 504 read with Section 34 of the Indian Penal Code in the matter, and prays for rejection of the application.

5. Ms. Aastha Sharma, learned counsel for non-applicant No.2, reiterated the same contention advanced by learned APP and stated that considering averments made in the complaint, this is not a fit case of interference of this Court in the matter.

6. In the light of submission made by Applicant in the matter about relevancy of Section 468 of Code of Criminal Procedure, it would be relevant to refer the judgment of Hon'ble Supreme Court of India in the case of *Japani Sahoo Vs Chandra Sekhar Mohanty reported in (2007) 7 SCC 394*, wherein Hon'ble Supreme Court of India held that "for the purpose of computing the period of limitation under Section 468 of Code of Criminal Procedure, the relevant date must be considered as the date of filing complaint or initiating criminal proceeding and not the date of taking cognizance by a Magistrate or issuance of process by a Court."

7. In the present matter, it is admitted fact that informant left the company of applicants family since 09/02/2021. The allegation levelled against applicants are during the period 13/05/2018 to 05/01/2021. The offence is registered against the Applicants on the complaint of Respondent No.2 on 20/08/2024. As such, prima-facie, complaint lodged by respondent No.2 is barred by limitation. Therefore, on this ground alone, entire proceeding registered against the Applicant is liable to be quash and set aside.

8. Applicant in support of submission has also relied upon the judgment of Division Bench of this Court in *Writ Petition No. 115 of 2022 Shashikant s/o Veerantappa Gajjari Vs State of Maharashtra decided on 14/03/2023*, wherein this Court also held that considering the maximum punishment as provided under Section 498A is

imprisonment for a term which may extend to 3 years. As such, Section 468(1)(2)(c) provides 3 years of limitation which commence on the date of offence. Hence concluded that complaint lodged after expiry of 3 years of commencement of the offence cannot be entertained.

9. Irrespective of the above issue, it is also pointed out that, the allegations which are levelled against the present applicants in the matter, there is only specific allegation of demand of Rs. 5,00,000/- by the husband, as he was willing to work as a Gram Sevak, and for that purpose he was required Rs. 5,00,000/-. Except that, there are no any allegations in the matter. Furthermore, it is the own case of the respondent No.2 that since 05/1/2021, she has left the matrimonial company of the applicants family and residing separately with the parents.

10. In view of the law laid down by the Hon'ble Supreme Court of India, any allegations which are levelled against the husband and his family members must satisfy essential ingredients of Section 498-A of the Indian Penal Code, 1860, and more particularly, the explanation given in clauses (a) and (b) of said provisions.

11. It is also law laid down by the Hon'ble Supreme Court of India that allegations should be of such nature as to demonstrate that the woman was subjected to harassment, she remained no other way then to commit suicide or a particular cause, she was harassed at such level that some was unbearable to her.

12. However, in the present case, there is only allegations of demand of Rs. 5,00,000/-. But for that demand, does not disclose the nature of mental and physical harassment caused to her in her

complaint. As such, the complaint is lacking the precise allegations against the present applicants in the matter.

13. Furthermore, applicant Nos.2 to 9 are the relatives of the husband and there are no specific allegations levelled against them in the matter. It is pertinent to note that, now-a-days, it is a tendency of complainant in matrimonial dispute to lodge the complaint against all the family members though there are no role attributed to them in the complaint. Hence, the Hon'ble Supreme Court of India, in a catena of judgments, has depreciated such practice on the part of the complainant, and has clarified that in such cases, the Court should be cautious and owes a duty to have holistic view while deciding the cases arising out of matrimonial dispute.

14. In the present case, as the applicant has rightly pointed out in the present matter, that there is inordinate delay in filing the complaint, and there is no explanation in the same. Therefore, in my opinion, the issue which was raised by the applicants is covered by the judgment of Hon'ble Supreme Court of India in case of *Japani Sahoo (supra)*.

15. It is further pertinent to note that, the allegations which are levelled against the applicants do not satisfied the ingredients of Section 498-A, 323 and 504 of IPC. Therefore, in my opinion, the case of complaint which is lodged is nothing but out of vengeance against the husband and his family members and therefore, same falls under Clause-7 of the parameters laid down by the Hon'ble Supreme court of India in the case of *State of Haryana vs Bhajan Lal reported in 1992 Supp (1) SCC 335*.

16. In the light of the above discussions, I am of the considered opinion that it is not the fit case to continue the criminal proceedings against the present applicants as same would amount to abuse of process of law and indulgence of this Court is necessary. Hence, I proceed to pass the following order.

ORDER

- a] The criminal application is **allowed**.
 - b] The First Information Report is registered vide crime No. 178 of 2024 dated 20/08/2024 for the offence punishable under Sections 498-A, 323, 504 read with Section 34 of Indian Penal Code, 1860, against the applicants is hereby quashed and set aside. No order as to costs.
 - c] All pending applications stands disposed of.
 - d] The fees of the appointed counsel be quantified as per Rule.
17. Rule is made absolute in the aforesaid terms. No order as to costs.

(PRAVIN S. PATIL, J.)