



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

CRIMINAL APPLICATION (APL) NO.1742/2024

1. Shaikh Jafar Shaikh Ismile,
Aged about 30 years,
Occupation : Private,
R/o. Barde Plot, Khamgaon,
Tah. Khamgaon, District-Buldhana.
2. Taura Bi Shaikh Ismile,
Aged about 52 years,
Occupation : Household,
R/o.Near Imamul Hasan Masjid,
Khamgaon, Tah. Khamgaon,
District - Buldhana.
3. Tanziya Parveen Shaikh Salim
Aged about 32 years,
Occupation: Household,
R/o.Malikhed, Main Road, Jalgaon
Jamod, Tah. Jalgaon Jamod,
District Buldhana.
4. Nilofer Parveen Shaikh Azhar,
Aged about 22 years,
Occupation: Household,
R/o.Barde Plot, Khamgaon,
Tah. Khamgaon, District-Buldhana.
5. Ayesha Bi Shaikh Wahid Atar,
Aged about 40 years,
Occupation : Household,
R/o. Ward No.2, Wankhed,
Tah. Sangrampur, District-Buldhana.
6. Shaziya Bee Sheikh Soheli,
Aged about 20 years,
Occupation: Household,

R/o.Bilal Nagar, Washim,
Tah. & District - Washim.

... APPLICANTS

...VERSUS...

1. State of Maharashtra
Through Police Station
Officer, P. S. Balapur, Tah.
Balapur, District-Akola.
2. Namga Zarin W/o Shaikh
Jafar, Aged about 25 years,
Occupation: Household,
R/o.C/o.Shaikh Mehboob @
Mahelu, Javalibes, Balapur,
Tah. Balapur, District – Akola.

...NON-APPLICANTS

Shri N.G Tikar, Advocate h/f Shri R.D. Karode, Advocate for applicants
Ms S.V. Kolhe, APP for non-applicant No.1/State

CORAM : PRAVIN S. PATIL, J.

DATED : 22.01.2026

ORAL JUDGMENT

. Heard. By consent of the parties, this matter is taken
for final disposal.

2. By the present application, the husband, mother-in-law, sister-in-law and niece of non-applicant No.2 challenged the

registration of offence vide Crime No.0567/2024 dated 21.10.2024 for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code registered with Police Station Balapur, District Akola.

3. The applicants seek indulgence of this Court on the ground that the complaint was lodged by non-applicant No.2 is frivolous and without any substance. According to them, all false allegations are leveled against them only because of matrimonial discord. Hence, no offence is made out against them under Section 498-A of the Indian Penal Code and, therefore, it is a fit case to quash and set aside the proceedings against them.

4. Learned APP strongly opposed the present application. According to learned APP, the bare perusal of the First Information Report clearly established the fact that applicant No.1- husband has made a demand of Rs.1,00,000/- on the occasion of Ranzan Eid and when the non-applicant No.2 refused to satisfy the said demand, she was beaten by one wooden stick as well as given fist and kick blows to her. As such, considering these specific allegations leveled by non-applicant No.2, the offence is made out

against the present applicant No.1. It is also stated by learned APP that the specific allegations are made against the applicant No.2 to 6 that they were instigating the applicant-husband and on their instigation, she was ill-treated at the instance of husband. Therefore, learned APP states that it is not a fit case for interference by this Court in the matter by invoking the extraordinary powers and same deserves to be dismissed.

5. The applicants in support of his case, has pointed out that non-applicant No.2 was not interested to cohabit with the present applicant and their family members from day first. The applicant No.1 took every care and efforts to maintain marital relation and to cohabit with her. It is pointed out that applicant No.1 also issued legal notice for restitution on 03.08.2023 to the non-applicant No.2. But, same was not replied by the non-applicant No.2.

6. It is also pointed out by the applicant that he has filed the suit for the Restitution of Conjugal Rights before learned Civil Judge Senior Division, Khamgaon on 20.10.2023 and same is till

date pending on the file of Civil Judge, Senior Division, Khamgaon, bearing RCS No.158/2023.

7. It is pointed out that on the other hand, non-applicant No.2 has filed application under Section 12 of the Prevention of Women from Domestic Violence Act, against all family members on 30.09.2023. In the said complaint, flimsy and false allegations were leveled against the applicants.

8. It is pointed out by the applicant that on one hand, the allegations in the First Information Report against the husband that she was beaten on the day of Ramzan Eid by wooden rod on the count of refusal of fetch dowry, however if averments are looked into of the proceedings which was filed by non-applicant for the Protection of Women from Domestic Violence Act, there are no such specific averments made in the said proceedings. Hence, according to him, she has improved her version and lodged the complaint against the present applicants, with an oblique motive to implicate the applicants in criminal offence and send him in Jail.

9. It is also pointed out that the proceedings before the Magistrate under the Domestic Violence Act were filed on 30.09.2023 whereas the police complaint was lodged on 21.10.2024. As such, after a period of one year, a complaint was lodged, hence again, oblique intention to implicate the applicant-husband and all his family members in the web of crime is clear in the matter and, therefore, indulgence of this Court is necessary in the matter.

10. In light of these facts, which were pointed out by the applicant and perusal of the police complaint, it is clear that at first part of the First Information Report, it is alleged by the non-applicant wife that on the occasion of Ramzan Eid, the husband has demanded Rs.1,00,000/- from the parents of non-applicant No.2 and when she refused, she was brutally beaten by the applicant-husband. However, in the last part of the complaint, it is alleged that as she was not conceiving the pregnancy, the applicant-husband and his family members were torturing her and demanding Rs.1,00,000/- from her. As such, it is clear that the

allegations made by the non-applicant No.2 are not specific in nature. She is changing her version from time to time in the matter.

11. It is further pertinent to note that there is a substantial delay in filing the police complaint. There is no explanation for delay. It is clear from the record that husband has filed the proceedings for the Restitution of Conjugal Rights, the wife has filed the proceedings under the Protection of Women from Domestic Violence Act and, thereafter, a period of one year, the present complaint has been lodged against the present applicants. Hence, the intention of the applicant is *prima facie* seems to be oblique to implicate all the family members in the crime. Therefore, in my opinion, considering the allegations and the manner in which the complaint is lodged against the present applicant, no offence is made out under Section 498-A of the Indian Penal Code.

12. In the circumstances, continuing of proceedings against the present applicant would nothing but abuse of process of law and, therefore, interference of this Court is necessary and accordingly, I proceed to pass the following order:

ORDER

- i) The application is allowed.
- ii) The proceedings bearing Crime No.0567/2024 dated 21.10.2024 for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code registered with Police Station Balapur, District Akola, is hereby quashed and set aside against the present applicants.

13. The application stands disposed of. No order as to the costs.

(PRAVIN S. PATIL, J.)

R.S. Sahare