



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

CRIMINAL APPLICATION (APL) NO. 543 OF 2025

1. **Sarfaraz Israil Khan**
Aged about 37 years,
Occupation : Employed
 2. **Fahmida Begum Israil Khan**
Aged about 64 years,
Occ. Household
- APPLICANTS**
- Applicant No.1 and 2
R/o Flat No.402, Raj Tower, Godhni
Road, Prakash Nagar, Zingabai Takli
Nagpur
3. **Naziya Israil Khan,**
Age – 42 Years,
Occ.–Employed,
Permanent R/O – Near M.PL. High
School, Vitthal Ward, Arvi, Wardha,
Maharashtra–442201.
Current R/O – Pragathi Nagar,
Ramanthapur, Hyderabad –
500013.
 4. **Bilkis Bano Abdul Rashid Sheikh,**
Age – 73 Years,
Occ.–Household,
Permanent R/O – Ambedkar Nagar,
Vtc: Deoli, Po: Deoli, Sub District:
Deoli, Wardha – 442101.
 5. **Jinat Afroj Mohammad Shahebzul
Haque,**
Age – 72 Years, Occ. – Household.
 6. **Shahebzul Mahebul Haque,**
Age – 75 Years,
Occ.–Nil,
Applicant No. 5 And 6 – Permanent
R/O – Ward No. 6, Kaji Pura,
Nachangaon, Wardha – 442306.
 7. **Sajeda Shekh Gaffar Shekh,**

Age – 60 Years, Occ. – Household,
R/O – Dayal Nagar, Railway Colony,
Wardha – 442001.

8. **Sheikh Rizwan Sheikh Gaffar, Age –**
36 Years, Occ. – Job,
R/O – RBI 101a Railway Colony,
Sanewadi New Railway Colony,
Wardha – 442001.
9. **Shajreen Azharuddin Quazi,**
Age – 34 Years, Occ. – Household;
10. **Azharuddin Moinuddin Quazi,**
Age – 38 Years, Occ. – Private Work;
11. **Moinuddin Ghayasuddin Quazi,**
Age – 70 Years,
Occ.–Nil;

Applicant No. 9, 10 And 11
R/O – Plot No. 241, Mahendra
Nagar, Dr. Ambedkar Marg, S.O.,
Nagpur – 440017.

// V E R S U S //

1. State Of Maharashtra,
Through P.S.O., Ghadge Nagar,
Amravati, District – Amravati.
2. 2Almas Taj D/O Iqbal Ansari,
Age 31 Years,
Occ. – Private Job,
R/O – C/O Mohammad Iqbal
Ansari, Plot No. 96-B, Hazrat
Mushir Colony, Survey No. 62,
Near Wizard School, Amravati

NON-APPLICANTS

Mr. S.S. Mohsin, Advocate for the applicants.
Mr. K.R. Lule, APP for the State.
Mr. M.N. Ali, Advocate for non-applicant No.2.

CORAM : URMILA JOSHI PHALKE, J.

DATED : 04.03.2026

ORAL JUDGMENT :

1. Heard.
2. **ADMIT.** Taken up for final disposal with the consent of learned counsel for the parties.
3. The present application is preferred by the husband and nearest relatives of husband of non-applicant No.2 for quashing of the First Information Report in connection with crime No.1062/2024/2024 registered at Police Station Gadge Nagar, Khamgaon District Amravati for the offences punishable under Section 3(5) and Section 85 of the Bharatiya Nyaya Sanhita and consequent proceeding arising out of the same bearing RCC No.1087/2025 pending before Extra Joint Civil Judge, Junior Division and Judicial Magistrate First Class, Amravati.
4. The crime is registered on the basis of report lodged by non-applicant No.2 on an allegation that her marriage was performed with applicant No.1-Sarafaraj Khan on 03.12.2023. After marriage she resumed co-habitation at the house of present

applicants. But all the applicants were instigating the applicant No.1 and on instigation he was ill treating her physically as well as mentally. It is further alleged by her that applicant Nos.2 to 11 instigating the applicant No.1 saying that the other marriages bridegroom receives a dowry to the extent of Rs.10 Lakhs but he has not received anything and thereafter she was abused by applicant No.1. She specifically alleged that on 01.09.2024 applicant Nos.1 and 3 when she had been to the matrimonial house abused her and restrained her from entering in the house and therefore, she constrained to leave the matrimonial house and approached to the police station and lodged the report. On the basis of the said report police have registered crime against the present applicants.

5. Heard learned counsel for the applicants who submitted that on the basis of general, vague and omnibus allegations all the applicants are implicated in the alleged offence. In fact the applicant No.3 was not present on 01.09.2024 at the matrimonial house of non-applicant No.2. Merely because she is the sister of applicant No.1 she is implicated in the alleged offence. It is further alleged by him that no wilful conduct is

narrated by the non-applicant No.2 as far as the offence under Section 498-A of the IPC is concerned. He submitted that considering the nature of the allegations now it is settled law that unless there is specific allegations levelled against the applicants the offence under Section 498-A will not constitute. In view of that application deserves to be allowed.

6. Per contra, learned APP and learned counsel for the non-applicant No.2 strongly opposed the said contention and submitted that considering that specific instances are narrated by the present non-applicant No.2 application deserves to be rejected.

7. After considering the rival submissions of both the parties and on perusal of the entire investigation papers, it reveals that marriage between applicant No.1 and non-applicant No.2 was performed on 03.12.2023. After marriage she resumed cohabitation. As far as applicant Nos.2 and 4 to 11 are concerned, against whom the general, omnibus and sweeping allegation is levelled. No specific instances are narrated as far as their role is concerned. But applicant Nos.1 and 3 against whom specific date and specific instances are mentioned as to the abuses and

restraining her from entering into the house. For the purpose of Section 498 A of the IPC, cruelty means (a) any wilful conduct which is 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; or (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her 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.

8. In the light of the definition given under Section 498-A of the IPC and to attract the offence the explanation 1 and 2 states that there has to be wilful conduct which is of such a nature to drive the women to commit suicide. As far as applicant Nos.2, 4 to 11 are concerned no wilful conduct is narrated by the non-applicant No.2. There is no doubt that the object of introducing Chapter XXA containing Section 498-A in the Indian Penal Code also prevent the torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing husband and his relatives to harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of

dowry. In any event the wilful act or conduct ought to be the proximate cause in order to bring home the charge under Section 498-A of the IPC,

9. In the light of the above requirement, admittedly no prima-facie case is made out against the applicant Nos.2, 4 to 11 but specific allegations are levelled against the applicant Nos. 1 and 3. Learned counsel though placed reliance on one document which shows that the applicant No.3 was not present at the relevant time but that is the matter of evidence. At this stage, it cannot be considered.

10. In view of the above discussion mere reference of the names of the relatives is not sufficient to attract the offence. There has to be specific instances narrated by the non-applicant No.2 to attract the offence against them. In view of that application deserves to be allowed partly.

11. Hence, I proceed to pass the following order:-

ORDER

- (i) The Criminal Application is allowed partly.

(ii) The First Information Report in connection with crime No.1062/2024 registered at Police Station Gadge Nagar, District Amravati for the offences punishable under Section 3(5) and Section 85 of the Bharatiya Nyaya Sanhita and consequent proceeding arising out of the same bearing RCC No.1087/2025 pending before learned Extra Joint Civil Judge, Junior Division and Judicial Magistrate First Class, Amravati is quashed and set aside to the extent of applicant Nos.2 and 4 to 11.

(iii) The prayer of applicant Nos.1 and 3 for quashing of the FIR deserve to be rejected.

12. The criminal application stands disposed of in the above said terms.

Pending applications, if any, also stand disposed of.

(URMILA JOSHI PHALKE, J.)