



Judgment

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

CRIMINAL APPLICATION APL NO.726 OF 2025

1. Mr.Aadesh s/o Maroti Patil, (Husband),
aged about 41 years, occupation private job.

2. Mr.Maroti s/o Nathuji Patil, (father-in-law),
aged about 74 years, occupation NIL.

3. Mrs.Maya w/o Maroti Patil (mother-in-law),
aged about 67 years, occupation housewife.

1 to 3 r/o behind water tank, plot No.945,
Nagsewan Dr.Ambedkar Marg, Nagpur.

4. Mr.Vishal s/o Maroti Patil, (brother-in-law)
aged about 43 years, occupation : private job.

5. Mrs.Madhuri w/o Vishal Patil (sister-in-law)
aged about 38 years, occupation private job.

Both 4 and 5 r/o Nagsen Van plot No.945, lane
No.37, P.S.Yashodhara Nagar, Nagpur.

6. Mrs.Varsha w/o Vishwanath Potpose (sister-in-law)
aged about 45 years, occupation private job,
r/o plot No.19, Shahu layout, Davalameti,
P.S.Wadi, Nagpur.

..... **Applicants.**

:: VERSUS ::

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1. State of Maharashtra,
through Police Station Officer,
Police Station Yashodhara, Nagpur.

2. Mrs.Rachana Aadesh Patil (wife)
aged about 37 years, occupation service,
r/o near ICAR Guest House, Central Bazar
Road, Kachipura, PS Sitabuldi,
Nagpur. **Non-applicants.**

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Shri C.F.Bhagwani, Counsel for the Applicants.

Mrs.M.A.Barabde, APP for Non-applicant No.1/State.

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CORAM : **URMILA JOSHI-PHALKE, J.**

DATE : **19/01/2026**

ORAL JUDGMENT

1. Heard learned counsel Shri C.F.Bhagwani for the applicants and learned APP Mrs.M.A.Barabde for the non-applicant No.1/State. Despite service of notice, none appears for non-applicant No.2 (the informant). **Admit.** Heard finally by consent of the parties.

2. By this application, the applicants seek quashing and setting aside FIR in connection with Crime No.310/2022 registered under Sections 323, 324, 353-A, 354-C,

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498-A, 504, 506, and 509, read with 34 of the IPC and consequent proceeding arising out of the same bearing RCC No.4041/2023 pending before learned JMFC, Court No.7, Nagpur.

3. The crime is registered on the basis of a report lodged by non-applicant No.2 (the informant) on allegations that her marriage was performed with the applicant No.1 on 21.5.2012. After the marriage, she resumed cohabitation at her matrimonial house, but she was ill-treated. Even, her virginity was verified by the applicants and, thereafter, she started residing along with her husband at Mumbai. However, there was dispute between her and her husband on various reasons. Her mother-in-law was also visiting their house and she was also ill-treating her. Thus, it is alleged that for various reasons, she was ill-treated by the applicants physically and mentally and, therefore, she was constrained to leave the matrimonial house. On the basis of the said

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report, the police registered the offence against the applicants.

4. Learned counsel for the applicants invited my attention towards subsequent FIR lodged by the informant against another person alleging that he has subjected her for forceful sexual assault. Thus, he submitted that since 2018, she is residing separately from her husband. He submitted that recital of the FIR itself shows that since 2012, she is residing along wither her husband at Thus, the other applicants were not at all residing along with them in the domestic relationship and, therefore, the allegations levelled against the other applicants appear to be false and fabricated. He submitted that even recital of the FIR shows that since 2018, she is residing separately and, therefore, question of harassment till 2022 does not arise. He submitted that as the dispute arose between the husband and wife, this false FIR came to be lodged after four years when she left the house and, therefore, no prima facie case is made out against the

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applicants. In view of that the application deserves to be allowed.

5. Learned APP for the State invited my attention to statement of the informant and submitted that she was subjected for harassment physically and mentally and her virginity was also verified by the applicants. Thus, the applicants are also liable for the offence under Section 354 of the IPC. In view of that, the application deserves to be rejected.

6. On hearing both the sides and perusing the entire investigation papers, it reveals that admittedly, the facts and circumstances on record show that the informant has left matrimonial house in the year 2018 itself. Recital of the another FIR lodged by her against one person by name Aayan Koushik shows she has alleged that in 2017 she came in contact with said Aayan Koushik. She accepted his friendship request and, thereafter, there were communications between

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them. Said Aayan Koushik has subjected her for forceful sexual assault in October 2017 on the promise of marriage. Thus, recital of the FIR shows that since 2017 she is not residing along with her husband and there was some consensual relationship between her and said Aayan Koushik.

7. Considering recital of the FIR lodged by the informant against Aayan Koushik, it reveals that initially she was residing along with her husband at Mumbai whereat other applicants were not residing and subsequently since 2017, she developed relationship with Aayan Koushik and, thereafter, she never returned back to her matrimonial house. As far as incident of August 2019 is concerned, it is general in nature. No specific instances are narrated by the informant.

8. “Cruelty” defined under Section 498-A of the IPC requires that there should be harassment of woman where such harassment is with a view to coercing her or any person

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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 earlier made.

9. Thus, “cruelty” perpetrated to a woman may be physical or mental. However, mentioning it in the report is not sufficient to establish physical as well as mental harassment. The story narrated by the informant itself appears to be improbable and unacceptable. The criminal proceeding should not be allowed to be resorted as short term to settle the matrimonial the dispute. Before taking cognizance, the criminal court has to exercise great deal of caution.

10. It has been observed by the Hon’ble Apex Court in the case of **Achin Gupta vs. State of Haryana, reported in (2025) SCC OnLine 759**, that, “if a person is made to face a criminal trial on some general and sweeping allegations without bringing on record any specific instances of criminal conduct,

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it is nothing but abuse of the process of the court. The court owes a duty to subject the allegations levelled in the complaint to a thorough scrutiny to find out, prima facie, whether there is any grain of truth in the allegations or whether they are made only with the sole object of involving certain individuals in a criminal charge, more particularly when a prosecution arises from a matrimonial dispute”.

11. Now a days, it has become a recurring tendency of implicate every member of the husband family in such types of offences.

12. Considering the nature of the offence and allegations levelled and the previous FIR lodged by the informant against one Aayan Koushik, story narrated by the informant, as far as harassment is concerned, appears to be concocted.

13. In this view of the matter, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

(1) The Criminal Application is **allowed**.

(2) FIR in connection with Crime No.310/2022 registered under Sections 323, 324, 353-A, 354-C, 489-A, 498-A, 504, 506, and 509, read with 34 of the IPC and consequent proceeding arising out of the same bearing RCC No.4041/2023 pending before learned JMFC, Court No.7, Nagpur are hereby quashed and set aside to the extent of the applicants.

Application stands **disposed of**.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

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