



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

CRIMINAL APPLICATION (APL) NO. 964 OF 2025

APPLICANT : Mrs. Pratibha wd/o Prabhakar Dawle,
Aged about : 77 years,
Occ. Household/Pensioner,
R/o Plot No.72, Nilkanth Nagar,
Chimurkar Layout, Hudkeshwar Road,
Nagpur.

V E R S U S

RESPONDENTS :

1. State of Maharashtra
Through PSO Hudkeshwar,
Dist. Nagpur.
2. XYZ (Complainant)
In Crime No.0505/2023,
Registered at PS Hudkeshwar.

Shri A. S. Pande, Advocate for applicant.
Shri Nikhil Joshi, Additional Public Prosecutor for Non-applicant No.1.
Ms. Harsha Mehta - Joshi, Advocate for non-applicant No.2.

CORAM: URMILA JOSHI-PHALKE, J.
DATED : 05/03/2026.

ORAL JUDGMENT :

1. Heard. **Admit.** Heard finally with the consent of learned counsel appearing for the parties.

2. By this application, the applicant who is the brother-in-law seeks quashing of the First Information Report in connection with Crime No.505/2023 registered under Sections 377 and 498-A r/w Section 34 of the Indian Penal Code and

consequent proceeding arising out of the same bearing RCC No.3385/2023 pending before the Judicial Magistrate First Class, Nagpur.

3. A crime is registered on the basis of report lodged by the non-applicant No.2 on an allegation that her marriage was performed with co-accused Prasanna Dawle, son of the present applicant on 25/05/2010. After marriage, she resumed cohabitation and she is having one daughter from the said wedlock. It is alleged by her that since the date of marriage, as she could not conceive, she was ill-treated by the present applicant as well as by her husband and therefore, she and her husband both have examined themselves and thereafter, she has delivered a daughter on 29/03/2013. After she delivered a daughter, again present applicant and the other co-accused started harassing her by saying that she has delivered a female child, she was abused and assaulted by the co-accused. Thereafter, she was also ill-treated for demanding the share in the father's property. Therefore, she constrained to leave matrimonial house. She has also alleged against the co-accused that he has subjected her for unnatural sexual assault. On the basis of said report, police have registered a crime against the present applicant.

4. After registration of crime, the investigation started rotating and during investigation, various statements were recorded, various documents are also collected and after completion of investigation, charge sheet was submitted against the present applicant as well as the co-accused.

5. Heard learned counsel for the applicant who submitted that entire allegations levelled against the present applicant itself are false and baseless. He invited my attention towards the order passed by the Special Court i.e. Sub-Divisional Officer, Nagpur. Before the Sub-Divisional Officer, Nagpur, the present applicant has preferred an application under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. In the said application, the present applicant has stated regarding the violence at the hands of the present applicant and other co-accused. She also filed a complaint before the Sub-Divisional Officer to that effect and the cognizance was taken and the order was passed by the Sub-Divisional Officer in her favour and the non-applicant No.2 and her husband were directed to pay maintenance to her as well as to make every provision for her maintenance. Against the said judgment and order of the Sub-Divisional Officer, Writ Petition No.7683/2023 was filed by the present non-applicant No.2 which was also disposed of by

considering the merits and thereafter, the present report came to be filed. Even accepting the allegation as it is, it reveals that the allegation against the present applicant is general, baseless and omnibus in nature. No specific instances are narrated as far as the ill-treatment or the demand by her from the non-applicant No.2 is concerned. As far as wilful conduct is concerned, admittedly, the entire FIR is silent regarding the wilful conduct of the present applicant to attract the offence punishable under Section 498-A of IPC. For the purpose of Section 498-A of 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.

6. There is no doubt that the object of introducing Chapter XX-A containing Section 498-A of the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498-A of the IPC was added with a view to punish a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry.

7. 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 IPC.

8. After applying the said provisions to the facts and circumstances of the the present case, in the light of the fact that it was the present applicant who has initiated action against non-applicant No.2 and thereafter, the FIR came to be lodged against the present applicant. Thus, it is apparent that to give a counterblast to the proceeding filed by the present applicant, non-applicant No.2 has implicated her on the basis of general, vague and omnibus allegations. In view of that, prima facie case is made out for quashing of FIR.

9. In view of the parameters laid down by the Hon'ble Apex Court in the case of ***State of Haryana & Ors. Vs. Bhajan Lal & Ors., 1992 Supp.(1) SCC 335***, which are reproduced as under :-

“(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

10. By applying the same, the application deserves to be allowed. Accordingly, I proceed to pass following order :-

ORDER

- i] The application is allowed.
- ii] The FIR in connection with Crime No.505/2023 registered under Sections 377 and 498-A r/w Section 34 of the IPC and consequent proceeding arising out of the same bearing RCC No.3385/2023 pending before the Judicial Magistrate First Class, Nagpur is hereby quashed and set aside to the extent of present **applicant - Mrs. Pratibha wd/o Prabhakar Dawle.**

iii] The application is disposed of.

[JUDGE]

Choulwar