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

CRIMINAL APPLICATION (APL) NO.1206 OF 2025

1. Sandip s/o Ganesh Kshirsagar,
Aged about 28 Years,
Occupation : Private Service, [husband]
2. Smt. Mala Ganesh Kshirsagar,
Aged about 55 Years,
Occupation : Household, [mother-in-law]
3. Ajay s/o Ganesh Kshirsagar,
Aged about 33 years,
Occupation : Nil, [brother-in-law]
4. Suraj s/o Ganesh Kshirsagar,
Aged about 30 Years,
Occupation : Agriculturist, [brother-in-law]
5. Ambika d/o Ganesh Kshirsagar,
Aged about 26 Years,
Occupation : Household, [sister-in-law]

All R/o. Adgaon Bk.,
Tahsil Talhara, District Akola.

.... APPLICANTS

// VERSUS //

1. The State of Maharashtra,
Through Police Station Officer,
Police Station, Telhara,
Tahsil Telhara, District Akola.
2. Sau. Puja w/o Sandip Kshirsagar,
Aged about 27 Years,
Occupation : Business,
R/o. C/o. Balu Keruji Khandare,
Jijamata Nagar, Telhara,
Tahsil Telhara, District Akola.

....NON-APPLICANTS

Mrs. Shilpa D. Giripunje, Advocate for applicants.
Ms. R. V. Sharma, APP for non-applicant No.1/State.
Mr. O. A. Ghare, Advocate for non-applicant No.2.

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CORAM : URMILA JOSHI-PHALKE, J.
DATED : 24/03/2026

ORAL JUDGMENT :

1. Heard.

2. **Admit.**

3. Heard finally with the consent of the learned Counsel for the applicants, learned APP for the State and learned counsel for the non-applicant No.2.

4. Present applicants are the husband and the nearest relatives of the husband approached to this Court by invoking the jurisdiction under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (under Section 482 of the Code of Criminal Procedure) for quashing of the FIR in connection with Crime No.198/2025 registered with Police Station Telhara, District Akola for the offence punishable under Sections 85, 115(2), 352 and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for short "BNS").

5. The crime is registered on the basis of a report lodged by the non-applicant No.2 on an allegation that her marriage was performed with the applicant No.1 on 26.07.2024. After marriage, she resumed cohabitation. When she was residing along with the applicants, her husband was addicted to bad vices

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such as drinking liquor and under the influence of liquor, he was ill-treating her physically as well as mentally. It is further alleged that other applicants were also instigating him and on their instigation, the applicant No.1 was torturing her. On the basis of the said report, police have registered the crime against the present applicants.

6. Heard learned counsel for the applicants, who submitted that on the basis of general, vague and sweeping allegations, the applicants are implicated in the alleged offence. No specific instances are narrated. After applying the provision under Section 498-A of IPC/Section 85 of BNS, there is no wilful conduct on the part of the present applicants, and therefore, no *prima facie* case is made out against the present applicants. Merely because the dispute arose between the husband and wife, all the applicants are implicated in the alleged offence. She also invited my attention towards the notice issued by the applicant No.1 which is dated 17.04.2025. She submitted that to give a counterblast to the said notice, this FIR came to be lodged. In view of that, she prayed for quashing of the FIR.

7. Learned APP and learned counsel for the non-applicant No.2/complainant strongly opposed the said contention and submitted that as far as the husband is concerned, wherein the specific allegation is that under the influence of liquor used to

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physically and mentally torture her. The statements of the witnesses are also recorded to that effect, which also substantiate the said allegation, and therefore, they prayed for rejection of the application.

8. After hearing both sides and on perusal of the entire investigation papers, as far as the husband is concerned, admittedly, there is a specific allegation that the applicant No.1 was addicted to bad vices and under the influence of liquor, he used to physically and mentally torture her. As far as the other applicants are concerned, admittedly, except the reference of their names, no specific instance, no specific wilful conduct is narrated by the non-applicant No.2. Thus, there is no wilful conduct as far as the applicant Nos.2 to 5 are concerned.

9. For the purpose of the Section 498-A cruelty means 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. There is no doubt that the object of introducing Chapter XXA 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. 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. As far as the applicant Nos.2 to 5 are

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concerned that wilful conduct is absent. Whereas the specific allegations are levelled against the husband, therefore, the application deserves to be allowed partly. Accordingly, I proceed to pass following order:

ORDER

- (i) The application is **allowed partly**.
- (ii) The FIR in connection with Crime No.198/2025 registered with Police Station Telhara, District Akola for the offence punishable under Sections 85, 115(2), 352 and 3(5) of the Bharatiya Nyaya Sanhita, 2023, and the consequent proceeding arising out of the same bearing RCC No.203/2025, are hereby quashed and set aside to the extent of the applicant Nos.2 to 5.
- (iii) The prayer of the applicant No.1 for quashing of the FIR is hereby rejected.

The application is disposed of.

(URMILA JOSHI-PHALKE, J)