



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

CRIMINAL APPLICATION (APL) NO. 1444 OF 2025

1. Asrar S/o Ajaj Kha Pathan,
Aged about 24 yrs., Occ: Business,
2. Ajaj Kha S/o Chandkha Pathan,
Aged about 55 yrs., Occ: Business,
3. Kamar Sultan W/o Ajaj Kha Pathan,
Aged about 50 yrs., Occ: Household,
4. Mohasin S/o Ajaj Kha Pathan,
Aged about 26 yrs., Occ: Business,
5. Nahid W/o Mohasin Kha Pathan,
Aged about 25 yrs., Occ: Household,
All Applicants are R/o Sawarkar
Square, Near Masjid, Alapalli,
Tah. Aheri, Distt: Gadchiroli.

APPLICANTS

Versus

1. The State of Maharashtra,
Through Police Station Officer, Police
Station Chimur, Tah. Chimur,
Distt: Chandrapur.
2. Ayasha W/o Asararkha Pathan,
Aged about 23 yrs., Occ: Household,
R/o C/o Ajaj Rahim Sheikh, Peth
Ward, Near Pandharinath Temple,
Neri, Tah. Chimur, Distt:
Chandrapur.

NON-APPLICANTS

Mr. I.K. Daudasare, Advocate for the Applicants.
Ms. Mrunal Barabde, APP for the Non-applicant No.1/State.
Ms. D.R. Mahatkar, Advocate for the Non-applicant No.2.

CORAM : URMILA JOSHI PHALKE, J.

DATED : 30th JANUARY, 2026.

ORAL JUDGMENT :-

1. Heard.

2. **ADMIT.** Heard finally by the consent of learned Counsel appearing for the respective parties.

3. The present Application is preferred by the husband and the nearest relatives of the husband under Section 528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 for quashing of the First Information Report in connection with Crime No.176/2025 registered with Police Station Chimur, District Chandrapur for the offence punishable under Sections 85, 296, 351(2), 352, 3(5) of the Bharatiya Nyaya Sanhita (BNS), 2023 and Sections 3 and 4 of the Dowry Prohibition Act

and consequent proceeding arising out of the same bearing R.C.C. No. 180/2025.

4. 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 11.12.2022. After marriage she resumed cohabitation at the house of the present Applicants, wherein all the Applicants were residing together. She alleged that, initially for two months she was treated well and thereafter she was subjected for ill-treatment as she has not conceived. Subsequently when she got pregnant her character was suspected and on that count it was told to her that they will not maintain her at their house. Thereafter when she was 6 months pregnant she received a phone call of one lady and it revealed to her that there is illicit relations with her husband and the same lady. She further alleged that, when she delivered the child none from her family members visited her and no efforts were made to take her back as well as they quarreled with her, and therefore, she constrained to leave the matrimonial house and stayed in her

parents house. On the basis of the said report Police have registered the crime against the present Applicants.

5. Heard learned Counsel for the Applicants, who submitted that the entire allegations levelled against the present Applicants are general, omnibus and vague in nature. No specific instances are narrated as far as the present Applicants are concerned. In view of definition under Section 498-A of IPC (85 of BNS) regarding cruelty, there has to be some wilful conduct on the part of the present Applicants, which is also absent in the present case. Mere reference of the names of the present Applicants is not sufficient to attract the offence punishable under Section 498-A of IPC (85 of BNS). The offence of criminal intimidation is also not made out. As far as the offence under Section 296 of BNS is concerned which is also not applicable as mere abuses are not sufficient to attract the obscene act. In view of that, the 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 as far as the husband is concerned, against

whom the specific allegation is there regarding he is having illicit relations with another lady and the ill-treatment at his hand. As far as the other Applicants are concerned, against whom also specific role is attributed to them. In view of that, *prima facie* case is made out against the present Applicants, and therefore, the Application deserves to be rejected.

7. On hearing both the sides and on perusal of the recitals of the FIR as well as charge-sheet it reveals that, as far as the offence under Sections 3 and 4 of the Dowry Prohibition Act is concerned, admittedly there is no single statement of the Non-applicant No.2 that any demand was there on the part of the present Applicants to attract the offence punishable under Section 3 of the Dowry Prohibition Act, which reads as under.

“3. Penalty for giving or taking dowry.(1) If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more”.

8. Thus, in view of above definition if the recitals of the FIR are taken into consideration, admittedly there is no allegation as to the demand of dowry, therefore the offence

punishable under Sections 3 and 4 of the Dowry Prohibition Act is not made out.

9. Coming to the aspect of Section 498-A of IPC (85 of BNS), whether it is applicable or not, admittedly the settled law is that mere general and omnibus allegation is not sufficient to attract the offence as far as the relatives are concerned. Mere reference of their names without assigning any specific role is also not sufficient to attract the offence punishable under Section 498-A of IPC (85 of BNS).

10. On perusal of the recitals of the FIR it reveals that, general, omnibus and vague statement is made as far as the Applicant Nos. 2 to 5 are concerned. No specific role is attributed without assigning any specific instance as to the ill-treatment at their hands. Thus, considering the role of the Applicant Nos. 2 to 5 no offence is made out against them. As far as the Applicant No.1 is concerned who is the husband, considering the allegation against him that he was having illicit relations with another lady and admittedly it would cause mental ill-treatment to the Non-applicant No.2. Moreover, on the instigation of others it is alleged that he was ill-treating her

physically as well mentally, therefore *prima facie* case is made out against the Applicant No.1. In view of that, the Application deserves to be allowed partly. Accordingly, I proceed to pass the following order.

ORDER

- i. Criminal Application is **partly allowed**.
- ii. The prayer of Applicant No.1/Asrar S/o Ajaj Kha Pathan for quashing of the FIR, is hereby rejected.
- iii. The First Information Report in connection with Crime No. 176/2025 registered with Police Station Chimur, District Chandrapur for the offence punishable under Sections 85, 296, 351(2), 352, 3(5) of the Bharatiya Nyaya Sanhita (BNS), 2023 and Sections 3 and 4 of the Dowry Prohibition Act and consequent proceeding arising out of the same bearing R.C.C. No. 180/2025, are hereby quashed and set aside to the extent of the Applicant Nos.2 to 5.

11. Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI PHALKE, J.)