

MHPU080017592025



Cri.M.A./345/2025

Prasad Mahadev Avghade Vs.  
Pushpanjali Prasad Avghade**ORDER BELOW EXH. 1**

The applicant has filed this application under section 175(3) of B.N.S.S. It is submitted that, the respondent no. 1 is his wife and other respondents are the relatives of respondent no. 1 and her friends. The applicant got married to respondent no. 1 on 05.02.2018 and they have one child from the said wedlock. According to the applicant the respondent no. 1 never followed her responsibility towards the applicant in pursuance of their marriage. She was used to avoid the household works and used to quarrel with the applicant on a trivial grounds. She was used to abuse the applicant in a filthy language. However for the sake of their marriage and their child the applicant endured all the harassment at the hands of respondent no. 1 and her family members. Meanwhile the applicant and the respondent no. 1 purchased a flat on a home loan. They both were incurring the EMI of Rs. 71,000/- for the said loan. However, the applicant stopped paying the said EMI since 2023 till date and therefore the Kotak Mahindra Bank has sealed the said flat. The respondent no. 1 had an love affair with the respondent no. 7 before marriage, But he is still messaging the respondent no. 1. It is further alleged that, the respondent no. 1 along with respondent no. 2 to 7 are engaged in black magic and the respondent no. 1 follows the rituals which are prohibited under The Maharashtra Prevention and Eradication of Human Sacrifice and others Inhuman, Evil and Aghori Practices and Black Magic Act.

2. The applicant has filed the application made before Khadki police station and Commissioner of Police, Pune. Further he has filed some

photographs showing some written notes relating to black magic. From perusal of these documents and the contention of the applicant I do not prima facie find that the respondent no. 1 to 7 are following some black magic rituals. The photographs of those notes do not prima facie contain any signature or names of the respondents. Therefore, at this stage it does not make clear as to who has written those notes and for what purpose. The applicant has made mere allegations that the respondent no. 1 is following black magic rituals but, he has not specified the manner and the nature of those rituals. He has also not filed any photographs showing the black magic material as provided in the said act. Therefore, from the contentions of the application and the documents therein the section 2,3 of The Maharashtra Prevention and Eradication of Human Sacrifice and others Inhuman, Evil and Aghori Practices and Black Magic Act do not prima facie attract.

3. Further the applicant has prayed to direct the police to lodge FIR under section 316 (2) and 61(2) of B.N.S. Section 316(2) is the offence punishable for criminal breach of trust for which the entrustment of property is necessary. Here from the application, I do not find such kind of entrustment of property with the respondent no. 1. The flat which is mentioned in the application is purchased by the applicant and respondent no. 1. They both are co-owners and they have divided their loan EMI's between them. Therefore this cannot be said as entrustment of property. Further to establish the offence of criminal breach of trust the misuse of property is also necessary. But here no prima facie document is on record showing the respondent no. 1 has misused any property. Moreover, section 61(2) of B.N.S. is provided for criminal conspiracy. The prima facie ingredients of the said section is also not attracted here. Further for alleging offence under section 115 the simple hurt must be prima facie established. However, from the records there is no single contention of the applicant about the simple hurt caused by the respondents to the

applicant. As far as regards to section 351(1) and 352 are concerned, this court is inclined to conduct inquiry under section 223 of B.N.S.S. as section 351 and 352 are non cognizable offences. Therefore I pass following order,

**ORDER**

1. Prayer for direction under section 175(3) of the B.N.S.S. is rejected.
2. The applicant is directed to submit verification and examine witnesses if any under section 223 of B.N.S.S. on next date.

Date: 03/02/2026

**( P. S. Apte )**  
Judicial Magistrate FC  
(Court No. 2) Khadki, Pune.