



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

CRIMINAL APPLICATION (APL) NO. 647 OF 2024

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| 1. | Santosh s/o Jitendra Kshirsagar,
Aged about 47 years,
Occupation : Service,
Resident of Sundarkhed,
Behind State Bank of India,
Shivshankar Nagar, Chikhli Road,
Buldhana, Husband | <u>APPLICANTS</u> |
| 2. | Jitendra Eknath Kshirsagar,
Aged about 81 years, Occupation
agriculture, Father in law | |
| 3. | Smt. Venutai W/o Jitendra
Kshirsagar, Aged about 78 years,
Occupation - Agriculture, - Mother in
law | |
| 4. | Smt. Sunita Gajanan Jatale,
Aged about years, Occupation-
Household - Sister in law | |
| 5. | Gajanan Gangaram Jatale,
Aged about 59 years, Occupation
Agriculture; - Husband of sister in
law Applicant Nos. 2 to 5 having
address at Post Vivra, Tahsil Patur,
District Akola | |
| 6. | Bhagyashri D/o Gajanan Jatale,
Aged about 30 years,
occupation Service,
Resident of Lower Parel,
Mumbai 4400 013. Neice of husband | |
| 7. | Smt. Sonali Rushishwar Chopde,
Aged about 33 years, Occupation
Service, Resident of Shivshankar
Nagar, Buldhana, Tahsil and District
Buldhana. - Neice of husband | |
| 8. | Shri Rushishwar Shivdas Chopde,
Aged about 36 years, Occupation
Service, Resident of Shivshankar | |

- Nagar, Buldhana, District Buldhana.
Husband of A-7
9. Sau. Pratibha Pramod Wankhede,
Aged about 42 years, Occupation-
Household, Resident of Sai Nagar,
Malkapur, Tahsil Malkapur,
District Buldhana Sister in law
 10. Sau. Pratibha Pramod Wankhede,
Aged about 42 years, Occupation
Household, Resident of Sai Nagar,
Malkapur, Tahsil Malkapur, District
Buldhana. Sister-in-law,
 11. Sau. Anita Ramkrushna Karangale,
Aged about 54 years,
Occupation- Household,
Resident of Unnati Nagar Kaulkhed,
Akola, Tahsil and District Akola
Sister in law
 12. Smt. Savita Gajanan Tayade,
Aged about 52 years, Occupation
Agriculture, Resident of & Post
Kherda (Bhagai), Tahsil Barshitakli,
District Akola. Sister in law
 13. Sau. Surekha Ravindra Tayade,
Aged about 49 years, Occupation
Service, Resident of Santaji Nagar,
Bhagwatwadi, Telhara, Tahsil
Telhara, District Akola 444108.
Sister in law
 13. Smt. Pushpalata Parvin Bochare
Aged about 40 years, Occupation
Service, Resident of Vyala, Tahsil
Balapur, District Akola. Sister in law

VERSES

1. **The State of Maharashtra,**
Through Police Station Officer,
Police Station, Buldhana City,
Buldhana
2. Smt. Vrushali w/o Santosh
Kshirsagar,
Aged about 42 years,

Occupation Household,
Resident of Ithape Layout, near
Love Trust Anathashram,
Sundarkhed, Buldhana 443001

NON-APPLICANTS

Mr. Atharv Manohar, Advocate for the applicants.
Mr N.B. Jawade, APP for non-applicant No.1/State.
Ms. Ayushi Mishra, Advocate for non-applicant No.2.

CORAM : URMILA JOSHI PHALKE, J.

JUDGMENT RESERVED ON :-06.04.2026

JUDGMENT PRONOUNCED ON:- 17.04.2026

ORAL JUDGMENT :

1. Heard.
2. **ADMIT.** Taken up for final disposal with the consent of learned counsel for the parties.
3. The present application is preferred by the applicants for quashing of the FIR in connection with crime No.1025/2023 registered with Police Station Buldhana District Buldhana for the offences punishable under Sections 498-A, 504 and 506 of the Indian Penal Code and consequent proceedings arising out of the same bearing charge-sheet No.52/2024.

4. Crime is registered on the basis of the report lodged by non-applicant No.2 who is wife of applicant No.1 alleging that her marriage with the applicant No.1 was performed on 03.12.2008. After marriage she resumed the cohabitation at the house of the present applicants. As per her allegations after marriage immediately as she reached belatedly at her matrimonial house by one or two days. She was scolded by the applicants. They also started demanding the remaining dowry amount from her. After one month she went alongwith her husband at Washim as he was serving as a Engineer in Maharashtra State Electricity Distribution Company Limited at Washim (hereinafter referred as 'MSEDCL'). She alleged that whenever on the occasions of holidays or festivals she used to visit her matrimonial house. Her husband and her-in-laws were taunting her for the dowry amount but she was under expectation that some day everything would be alright and therefore, she continued staying with the applicant No.1. From the said wedlock she is having two children, one son and one daughter aged about 13 years and 5 years. When she was residing at Washim her niece also came at her house for education purpose. Despite she was taking due care of her niece

but her sister-in-law and her husband were raising quarrel with her on pretext that she is not taking care of her niece. After three years her husband was transferred at Buldhana, therefore, she alongwith her husband started residing at Buldhana but there was no change in the behaviour of her-in-laws and her husband and she was continuously ill treated by the present applicants on demand of Rs. 1 Lakh remaining dowry amount and the utensils which were not given in the marriage. She was physically assaulted by her husband as well as abused and humiliated by him. Whenever she visited her in-laws place at Vivra she was forced to do agricultural work as well as cooking on the earthen stove and other works. She was also taunted by the applicants. Therefore, she constrained to leave the matrimonial house. Thereafter she as well as her parents felt that her matrimonial life should not be disturbed therefore, meeting was held and she again resumed the cohabitation in December, 2022. But there was no change in the behaviour of the applicants and ill treatment continued therefore, finally she constrained to leave the matrimonial house and started residing along with her parents. On the basis of the said report police have registered crime against the present applicants.

5. After registration of the crime the Investigating Officer has recorded her statement as well as statements of the relevant witnesses. She filed an application before Judicial Magistrate First Class, Buldhana for further investigation which was allowed and further investigation was also carried out. After completion of the investigation the charge-sheet was submitted against the present applicants.

6. Heard learned counsel for the applicants who submitted that it was present applicant who has issued her notice to resume the cohabitation on 29.09.2022 as without any sufficient cause she left the matrimonial house and started residing with her parents since 14.05.2022 and asked her to join his company. The said notice was replied by her alleging the cruelty at the hands of the present applicants which is baseless, vague and omnibus allegations. He submitted that she resumed the cohabitation in December, 2022. But there was no change in her behaviour. She was not giving respect either to his parents or other relatives. She was raising quarrel with him as well as other family members. She herself left the house on 14.05.2022

and subsequently after receipt of the notice by replying the said notice with false contentions she resumed the cohabitation but again she left the house. Thereafter much efforts are taken by the present applicants to convince her. Meeting was also held to bring her back on 13.06.2023. However, on 13.06.2023 she as well as her family members raised disputes and he as well as other family members were manhandled by the non-applicant No.2 and her parents. He has lodged report regarding the incident dated 13.06.2023 which is registered as NCR 475/2023. Non-applicant No.2 also lodged the report to give counter blast to the report of present applicant No.1 which was also registered as NCR report 476/2023. He submitted that marriage between present applicant No.1 and non-applicant No.2 was performed on 03.12.2008. After one month of marriage he started residing along with non-applicant No.2 initially at Washim and thereafter at Buldhana. As far as other applicants are concerned, there is no occasion for them either to demand amount or to ill treat physically or mentally. He submitted that it was non-applicant No.2 who started raising quarrels, humiliate him as well as his family members. In fact there was no dispute between them till birth of children. They

are having two children. Son is aged about 13 years and daughter is aged about 5 years. Since 14.05.2022 she has not raised any grievance before any authority or not a single notice or meeting was held alleging that she was subjected for the cruelty for remaining amount of dowry. As the difference of opinion was there between him and the non-applicant No.2 and therefore, without sufficient reason she left the matrimonial house and started residing alongwith her parents. Despite sufficient efforts she has not resumed the cohabitation. Therefore, he has issued notice to her on 29.09.2022 asking her to resume the cohabitation. After receipt of the notice general and omnibus allegations are levelled against him and his family members. The notice nowhere states that she was ill treated by the present applicants for demand of remaining amount of dowry. The notice is completely silent about the said allegation of ill treatment on account of demand of dowry. It is only alleged by her in the said notice that present applicant is not communicating with her and therefore, she undergone mental pressure, left the matrimonial house. He submitted that said notice is also silent regarding the ill treatment at the hands of other family members who are relatives of the applicant No.1.

7. Learned counsel for the applicants submitted that thereafter after thought with consultation with the counsel this FIR came to be lodged. He also invited my attention towards application filed by non-applicant No.2 for grant of maintenance under Section 125 of the Code of Criminal Procedure. He submitted that pleadings in the said application also nowhere disclose that she was ill treated for the remaining dowry by the applicant No.1 and other co-accused. Her allegation in the said application is that when she was pregnant for the first time said demand of Rs.1 Lakh which is remaining amount of dowry is made by the present applicants. This allegation itself is improbable and unacceptable. He further invited my attention towards the fact that she has not only made an allegation against present applicants but also against Investigating Agency. He submitted that she had filed an application for further investigation. After further investigation was permitted the various case diary entries which are placed on record show that she has not cooperated with the Investigating Agency also and made false allegations against the Investigating Agency. Thus, entire conduct of the non-applicant No.2 is sufficient to show

that she was not willing to cohabit and therefore, only to give counter blast to the notice issued by the present applicants FIR came to be lodged.

8. In support of his contention he placed reliance on the decision of *Ghanshyam Soni vs. State (Govt. of NCT of Delhi) and another* reported in *2025 LiveLaw (SC) 676*, *Mangeram vs. State of Madhya Pradesh and another* reported in *2025 SCC OnLine SC 1681*, *Dara Lakshmi Narayana & Ors v. State of Telangana* reported in *2025 3 SCC 735*, *Abhishek vs. State of Madhya Pradesh* reported in *(2023) 16 SCC 666* and *Digambar and Another vs The State Of Maharashtra* reported in *2024 SCC OnLine SC 3836*, *Mukesh and others vs. State of Uttar Pradesh in Special Leave Petition No.12354/2024 decided on 29.11.2024*, *Pradeep Kumar Kesarwani Vs. State of Uttar Pradesh and Another in Special Leave Petition No.11642/2019 and Mamidi Anil Kumar Reddy vs. State of Andhra Pradesh and Another* reported in *(2024) 12 SCC 175*.

9. Per contra learned APP strongly opposed the said contention and submitted that statement of the victim-non-

applicant No.2, previous complaints and the specific allegation therein sufficiently show that there was continuous harassment at the hands of the present applicants which is wilful conduct on their part. In view of the explanation given under Section 498-A of the IPC the consistent statements given by non-applicant No.2 sufficiently shows the involvement of the present applicants in the alleged offence. In view of that, application deserves to be rejected.

10. Heard learned counsel for the non-applicant No.2. She reiterated the contention that the statements which are recorded during the investigation and the conduct of the present applicants covered under the definition of cruelty. In view of that application deserves to be rejected. In support of her contention she filed her written statement wherein she stated that on perusal of the charge-sheet complaint reveals that no investigation has been carried out by the Investigating Officer. In furtherance of her complaint therefore, she filed Criminal Writ Petition No.32/2025 and this Court on relying upon the judgment of Full Bench of the Hon'ble Apex Court in the case of *Vinubhai Haribhai Malaviya and ors. vs. State of Gujarat and*

another reported in *(2019) 17 SCC* further investigation in furtherance to their complaint is a fundamental right of the Constitution of India. The complainant also approached to the trial Court seeking further investigation which was allowed by the trial Court in view of the further investigation. Her statement was also recorded and statements of the some additional witnesses are also recorded. She also made an allegation against Investigating Officer and submitted that Investigating Officer has not at all conducted fair investigation and she was forced to knock the door of the Court. She submitted that nothing has been shown to suggest that complain is filed to wreck vengeance. Applicants conduct should be noted who has filed frivolous complaint against the present non-applicant No.2. She submitted that consistently there was harassment at the hands of the applicants which drive her to leave the matrimonial house and took the shelter of her parents house. In view of that, the application deserves to be rejected.

11. In support of her contention she placed reliance Hon'ble Apex Court in the case of *Vinubhai Haribhai Malaviya and ors. vs. State of Gujarat and another, Hansura Bai and*

another vs. State of Madhya Pradesh and another reported in *2025 SCC OnLine SC 1119, Bhagwant Singh vs. Commissioner of Police and another* reported in *AIR 1985 SC 1285, Ram Lal Narang vs. State (Delhi Administration)* reported in *(1979) 2 SCC 322, Jitendra Singh vs. State of M.P. and another in Misc. Criminal Case No.42157/2024 decided on 08.04.2024, Zandu Pharmaceutical Works Ltd. and ors. Vs. Mohd. Sharaful Haque and another* reported in *(2005) 1 SCC 122, Mallappa Siddappa Alakkanur and ors. vs. State of Karnataka reported in (2009) 14 SCC 748, Paras Yadav and others vs. State of Bihar* reported in *(1999) 2 SCC 126 and Criminal Application No.1215/2023 (Aakash s/o Bhaskar Mahurkar vs. State of Maharashtra and another) decided on 26.02.2026.*

12. I have considered the submissions advanced on behalf of the parties. I have also perused the judgments relied upon by the learned counsel for the applicants and learned counsel for non-applicant No.2. The present application is preferred under Section 482 of the Code of Criminal Procedure for quashing of the FIR and consequent proceeding. As far as law regarding the quashing of the FIR is concerned, which is

settled. The position which emerges from the various judgments of the Hon'ble Apex Court show that "the power of the High Court in quashing criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct. The inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accordance with the guidelines such as (i) to secure the ends of justice or (ii) to prevent the abuse of process of any Court. In which matter power to quash criminal proceeding or complaint or FIR can be exercised where the offender and victim either have settled the dispute or whether there is a prima-facie case made out to quash the FIR. Before exercising of such power due regard to the nature and gravity of the crime required to be given.

13. The Hon'ble Apex Court in the case of **State of Haryana vs. Bhajanlal** has laid down the parameters for considering the application for quashing of the FIR.

14. Before entering into the merits of the case it is necessary to see relevant Section 498-A of the IPC. Section 498 A of the IPC reads as under:-

“498-A Husband or relative of husband of a woman subjecting her to cruelty.— Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

The explanation for the purpose of this Section “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”.

15. There is no dispute that the object behind introducing the above provision in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. It was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper technical view would be counter productive and would act

against interests of women and against the object for which this provision was added. 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 the IPC. The legislative intent is clear enough to indicate any particular reference to explanation (b) that there shall have to be series of acts in order to be harassment within the meaning of explanation (b).

16. Under Section 498-A cruelty itself is punishable. At the same time every kind of harassment cannot be regarded as 'cruelty' within the meaning of sub-clause (1) of Section 498-A of the IPC. It is settled that regular wear and tear dispute in the matrimonial life, the ground realities of rural life of the couple and their expectation have to be considered while considering the aspect of cruelty. The term cruelty has been defined in explanation 2 Section 498-A. Hence, it is not any and every cruelty i.e. made punishable but only cruelty as defined under the explanation. Sub-clause (a) of the explanation provides that cruelty means any wilful conduct which is of such nature as is likely to drive or the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman. Sub-clause (b) of the explanation to

Section 498-A provides that cruelty means harassment of the women 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. This sub-clause (b) does not make each and every harassment cruelty. The harassment is to be with definite object, namely to coerce the women or any person related to her to meet any unlawful demand therefore, mere harassment by itself is not cruelty. Mere demand for property etc. by itself is also not cruelty. It is only when the harassment is shown to have been committed for the purpose of coercing the women to meet demands is cruelty and this is made punishable under this Section. In other words, it is not every harassment for every type of cruelty that would attract provisions of Section 498-A of the IPC. It must be established that cruelty or harassment was with a view to coerce the women to commit suicide or to fulfilment legal demands of the husband or in-laws. In the case of **Girdhar Shankar Tawade vs State Of Maharashtra** reported in **2002 ALL MR (Criminal) 1669**, the Hon'ble Apex Court has explained the purpose and meaning of cruelty as defined in Section 498 of the

IPC. The basic purport of the statutory provisions is to avoid 'cruelty' which stands defined by attributing a specific statutory meaning attached thereto as noticed herein before. Two specific instances have been taken note of in order to describe a meaning to the word 'cruelty' as is expressed by the legislatures : Whereas explanation (a) involves three specific situations viz., (i) to drive the woman to commit suicide or (ii) to cause grave injury or (iii) danger to life, limb or health, both mental and physical, and in explanation (b) there is absence of physical injury but the legislature thought it fit to include only coercive harassment which obviously as the legislative intent expressed is equally heinous to match the physical injury.

17. In catena of decisions it is held that the cruelty as defined in Section 498-A of the IPC has to be distinguished from the normal wear and tear of married life. For instance if there is some differences between daughter-in-law and other family members on the performance of household chores which can be termed as normal wear and tear of life which cannot be by stretch of imagination be said to be instances of cruelty which would attract the provisions of Section 498- A of the IPC.

Similarly, every bickering in a marriage does not amount to cruelty.

18. In the light of the above well settled law the allegations in the present FIR which is lodged by the non-applicant No.2 requires to be considered. Initially, non-applicant No.2 has approached to the Women Cell wherein her statement was recorded and thereafter the FIR came to be registered against the present applicants. She has filed an application before Women Cell on 26.07.2023 alleging that her marriage was performed with applicant No.1 on 03.12.2008. From the said marriage, she is having one son aged about 13 years and daughter aged about 5 years. As per her allegations she stayed along with applicant No.1 at Washim, Buldhana, Patur, Ahmed Nagar and Shrirampur as applicant No.1 was serving in MSEDCL. Her application before Women Cell itself shows that at the relevant time the parents of the applicant No.1 were staying at Vivra Taluka Patur District Akola as they were having agricultural land there. As per her allegations the parents as well as sisters of the applicant No.1 were regularly on visiting terms at her house at Buldhana. She has alleged that after

marriage she was ill treated by the applicant No.1 as well as other applicants for demand for the remaining amount of dowry. She further alleged that whenever she used to visit her matrimonial house she was taunted on that ground as well as she was forced to do agricultural work and household work and she was abused and humiliated for the same. Thus, her entire allegations revolves around the fact that an amount of Rs.5 Lakhs was decided to be given as a dowry and some amount was remained and for that purpose she was ill treated by the all applicants as well as she was ill treated for household chores. By issuing the notices the applicant No.1 as well as non-applicant No.2 were called and their statements were recorded. An attempt was made to settle disputes between them but as the dispute was not settled and therefore, FIR came to be registered against the present applicants on 12.02.2023 with similar allegations.

19. It further reveals that prior to lodging of the FIR on 29.09.2022 applicant No.1 has issued notice to the non-applicant No.2 contending that her behaviour was not good in the family. She was not giving respect to his parents as well as to

his sisters and was raising quarrel. Without any reasons, she has left the house on 14.05.2022 and started residing at her parents house. The said notice was replied by non-applicant No.2 denying all the contentions and alleging that on the basis of the false allegation the said notice was issued to her. Thereafter, in December, 2022 she has joined the company of present applicant No.1 at Buldhana and started residing there. However, differences between her and applicant No.1 were not settled and therefore, finally, she left the matrimonial house and filed an application for grant of maintenance before the Family Court, Buldhana. On perusal of the said application shows that it was filed in August, 2023 i.e. prior to the registration of the crime against the applicants. In the said application, she has mentioned that dowry amount was fixed as Rs. 5 Lakhs but she has not alleged in the said application that she was ill treated for demand of remaining dowry amount. In the reply which was given by her to the notice issued by the applicant No.1 wherein also no such allegations are levelled against the applicants. Admittedly, her pleadings itself show that after the one month of marriage she started residing along with applicant No.1 at Washim as he was serving at Washim. Thus, this pleadings itself

shows that she was not in continuous company of the other applicants though she has stated that whenever she used to visit her matrimonial house during the vacations or holidays she was ill treated by the present applicants. Firstly, her marriage was solemnized in the year 2008. Till filing of the application before Bharosa Cell she never alleged that she was ill treated by the present applicants for the demand of remaining dowry. It is difficult to accept that after 14 years of marriage she was ill treated by the applicants for demand of remaining dowry when there was no previous complaint as to the demand of remaining dowry. On the contrary the statements of the witnesses also disclose that only for one month she resided along with other applicants at the matrimonial house. In pursuance of the order passed by the Judicial Magistrate First Class on the application filed by the non-applicant No.2 in RCC No.75/2024 for further investigation which was granted and during further investigation her statement was recorded. In the further investigation during her statement also she has not narrated any specific instances as to when she has visited her matrimonial house either from Washim or from Buldhana when she was residing along with applicant No.1 and nature of the harassment

which caused to her. Her allegations in the FIR show that she was asked to do household work as well as agricultural work and on that she was abused and humiliated by the other applicants. But as observed earlier no specific instances are narrated by the non-applicant No.2.

20. The conduct of the non-applicant No.2 is also required to be taken into consideration. She has filed an application before Judicial Magistrate First Class seeking further investigation under Section 173(8) of the Code of Criminal Procedure contending that during investigation only statements of four witnesses are recorded. Considering her grievance Judicial Magistrate First Class has directed for further investigation. Thereafter it was non-applicant No.2 who for one or other reasons has not attended the police station and not produced the relevant documents as to the misappropriation of her golden ornaments by the applicants or for recording her statements. Investigating Officer has recorded the entries in general diary to that effect. She has filed additional affidavits on various occasions before this Court and made grievance against investigating agency but the general diary entries which was

maintained by the investigating agency shows that despite notices are issued to her and telephonic communication she was reluctant to attend the police station to give statement. On perusal of the entire allegations levelled against the present applicant in one of the statement, type copy filed by her shows that after application filed before Women Cell and no settlement was arrived at thereafter she met with an Advocate and after consulting with the advocate she lodged the report. Admittedly, law expects a prompt FIR because it eliminates all the chances of coming up of coloured version and concoction. Admittedly, the FIR is not supposed to contend all details of prosecution version. It is spontaneously written what comes in the mind of the informant. It is not supposed to be guided by any legal advice and it is required to provide the brief of criminal happening or events. It is well settled that FIR is not encyclopedia of all the facts relating to crime. The only requirement is that informant should state all those facts which normally strike to mind and help in assessing gravity of the crime or identity of the culprit.

21. Upon plain reading of Section 498 A of the IPC it can be understood that an offence is punishable under the said

provision when husband or his relatives subjects women to cruelty which may result in imprisonment for a term extending up to three years and fine. The explanation under Section 498-A of Indian Penal Code defines cruelty for the purpose of Section 498-A of Indian Penal Code.

22. It is important to note that the applicant and non-applicant No.2 were not only residing at place where applicant No.1 was posted. As already observed that non-applicant No.2 has not specified any specific instances as to ill treatment on account of remaining amount of dowry till 2022 though her marriage was performed in the year 2008. Thus, with the reference to the allegations of dowry demand and related harassment of the non-applicant No.2 it is to be noted that she failed to put forth any material evidence or substance which supports the allegations content in the FIR and the charge sheet. A mere statement stating that present applicants frequently demanding remaining amount of dowry and harass her for the same is not sufficient to initiate criminal proceedings against them when the same is not corroborated or supported by any other material placed on record. Admittedly, first time the said

FIR came to be registered on 12.12.2023. She has not explained why she has not lodged the report earlier though initially on 14.05.2022 she left the matrimonial house and was staying at the house of her parents. Her own statement shows that in December, 2022 again she joined the company of applicant No.1 at Buldhana after she received the notice from the applicant No.1. There is no explanation as to why she has not lodged the complaint when she already left the company of the applicant No.1 as she was harassed continuously by the applicant No.1 and other family members for demand of dowry and for other reasons. The Hon'ble Apex Court in recent judgment of ***Charul Shukla vs. State of U.P and Ors.*** reported in ***MANU/SC/0278/2026*** observed that delay or lack thereof assumes greater importance in the matrimonial cases or criminal cases between the spouses as due to the personal nature of the allegations and relationship shared between the parties, there is already an insufficiency and inadequacy of evidence to support or rebut the claims and counterclaims. A delay of nearly seven years can therefore be fatal to the prosecution's case especially when the same has not been properly explained.

23. As far as the allegations against all the family members are concerned, admittedly, the said allegations are general, omnibus and sweeping in nature. Now it is settled law that mere reference of the names of the relatives would not be sufficient to attract the offence punishable under Section 498-A of the IPC against relatives. Time and again Apex Court has observed that merely stating certain vague and omnibus allegations without any cogent material evidence to support the same would not be sufficient to attract offence. At this juncture, it would be appropriate to quote the observation in the case of *Dara Lakshmi Narayana vs. State of Telengana* reported in *MANU/SC/1309/2024* wherein it is observed that “mere reference to the names of family members in a criminal case raising out of the matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is well recognized fact, borne out of judicial experience, that there is often a tendency to implicate all the members of the husband’s family when domestic disputes arise out of a matrimonial discord. Such generalized and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution.

Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessary harassment of innocent family members.

24. This aspect is also considered by the Hon'ble Apex Court in the judgment of **Preeti Gupta & Anr vs State Of Jharkhand & Anr** reported in (2010) 7 SCC 667 when the Hon'ble Apex Court observed in paragraph Nos. 30, 32 and 34 observed that

“30. It is a matter of common experience that most of these complaints under Section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.

32. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

34. Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases.

25. The observation of the Hon'ble Apex Court in the case of **Sushil Kumar Sharma vs Union Of India And Ors.** reported in **2005 (6) SCC 281** is relevant wherein it is observed as under :- "the object of the provision is prevention of the dowry meance. But as has been rightly contended by the petitioner many instances have come to light where the complaints are not bonafide and have filed with oblique motive. In such cases acquittal of the accused does not in all cases wipe out the ignominy suffered during and prior to trial. Sometimes adverse media coverage adds to the misery. The question, therefore, is what remedial measures can be taken to prevent abuse of the well-intentioned provision. Merely because the provision is constitutional and intra vires, does not give a licence to unscrupulous persons to wreck personal vendetta or unleash

harassment. It may, therefore, become necessary for the legislature to find out ways how the makers of frivolous complaints or allegations can be appropriately dealt with. Till then the Courts have to take care of the situation within the existing frame work. As noted the object is to strike at the roots of dowry menace. But by misuse of the provision a new legal terrorism can be unleashed. The provision is intended to be used a shield and not assassins' weapon. If cry of "wolf" is made too often as a prank assistance and protection may not be available when the actual "wolf" appears. There is no question of investigating agency and Courts casually dealing with the allegations. They cannot follow any strait jacket formula in the matters relating to dowry tortures, deaths and cruelty. It cannot be lost sight of that ultimate objective of every legal system is to arrive at truth, punish the guilty and protect the innocent. There is no scope for any pre- conceived notion or view. It is strenuously argued by the petitioner that the investigating agencies and the courts start with the presumption that the accused persons are guilty and that the complainant is speaking the truth. This is too wide and generalized statement. Certain statutory presumption are drawn which again are rebuttable. It

is to be noted that the role of the investigating agencies and the courts is that of watch dog and not of a bloodhound. It should be their effort to see that any innocent person is not made to suffer on account of unfounded, baseless and malicious allegations. It is equally indisputable that in many cases no direct evidence is available and the courts have to act on circumstantial evidence. While dealing with such cases, the law laid down relating to circumstantial evidence has to be kept in view.”

26. Keeping in mind the aforesaid observations I find that the FIR came to be registered against the present applicants on the basis of general, omnibus and vague allegations.

27. On careful scrutiny of the FIR depicts that without assigning any specific instances, specific role to the applicants all the family members were implicated on the basis of the vague, general and sweeping allegations regarding ill treatment for trifling reasons. The exact nature of the ill treatment is also not narrated by the non-applicant No.2. It is further apparent that as

dispute arose between husband and wife she left the matrimonial house and therefore, applicant No.1 has issued notice to her for joining the cohabitation and thereafter this FIR came to be lodged. Keeping in mind the observation of Hon'ble Apex Court in the case of **Sushil Kumar Sharma** referred above I find that this is a fit case to exercise jurisdiction under Section 482 of Cr.P.C. and quash and set aside the proceedings as against all the applicants since the contents of the FIR and charge-sheet appear to be bereft to make out any offence against them. As already observed that every bickering in the matrimonial life does not amount to cruelty. There has to be specific allegations with specific instances and the nature of the cruelty requires to be there in view of the explanation (a) and (b) of Section 498-A of the IPC. In view of that, the application deserves to be allowed.

28. Hence, I proceed to pass the following order:-

ORDER

- (i) The Criminal Application is allowed.
- (ii) The FIR in connection with crime

No.1025/2023 registered with Police Station Buldhana

District Buldhana for the offences punishable under Sections 498-A, 504 and 506 of the Indian Penal Code and consequent proceedings arising out of the same bearing charge-sheet No.52/2024 is quashed and set aside to the extent of applicants.

29. The criminal application stands disposed of in the above said terms.

Pending applications, if any, also stand disposed of.

(URMILA JOSHI PHALKE, J.)

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