



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

Criminal Application (APL) No. 1565 of 2023

1. Sandeep S/o Devidas Aware,
Aged about 32 years, Occ. Labour,
R/o Goregaon, Tah. Sindkhedraja,
District Buldhana
2. Devidas S/o Shankar Aware,
Aged about 61 years,
Occupation – Ex Serviceman/Private
3. Kamlabai W/o Devidas Aware,
Aged about 53 years, Occupation : Housewife
4. Ranjana W/o Devidas Aware,
Aged about 52 years, Occupation : Housewife
Nos. 2 to 4 are R/o Lonar, Tah. Lonar,
District Buldhana
5. Satish S/o Devidas Aware,
Aged about 38 years, Occupation :
Agriculturist
R/o Goregaon, Tah. Sindhedraja, District
Buldhana
6. Babita W/o Shantiram Thorat,
Aged about 35 years, Occupation : Housewife
7. Shantiram S/o Waman Thorat,
Aged about 40 years, Occupation : Service
(Teacher)
Nos. 6 & 7 R/o Vyad, Tah. Risod, District
Washim
8. Sandhya W/o Ashok Kamble,
Aged about 30 years, Occupation : Housewife,
R/o Bharjahagir, Tah. Risod, District-Washim

... Applicants

// VERSUS //

1. State of Maharashtra through Police Station Officer, Police Station Ansing, District Washim.
2. Seema W/o Sandeep Aware,
Aged about 29 years, Occ. Housewife,
R/o C/o Shivaji Raghoji Thoke, Jaipur, Tah.
and District Washim.

... Non-applicants

Shri Anup S. Dhore, Advocate for the applicants.

Shri G.S.Umale, APP for the non-applicant no.1/State.

Ms. Pragya Jaiswal, Advocate for the non-applicant no.2.

**CORAM : ANIL S. KILOR &
PRAVIN S. PATIL, JJ.**

DATED : 9th JUNE, 2025.

ORAL JUDGMENT : (PER : PRAVIN S. PATIL, J.)

Rule. Rule is made returnable forthwith. By consent of the learned counsel for the parties, the matter is taken for final disposal.

2. By this application filed under Section 482 of Code of Criminal Procedure, the applicant is seeking quashment of Regular Criminal Case No. 330 of 2023 pending before the Judicial Magistrate First Class, Court No.1, Washim arising out of Crime No. 0251 of 2023 and charge-sheet No. 74 of 2023 for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code and Section 4 of Dowry Prohibition Act.

3. The case of the prosecution in short is that non-applicant no.2 by her police report dated 30th August, 2023 alleged that after her marriage on 2nd June, 2014 with applicant no.1, she was subjected to mental and physical cruelty at the instance of applicants. She has alleged that she was insulted by saying that she is a daughter of beggar and no one likes her and further gave ill-treatment for giving less dowry in the marriage. As such on the basis of this allegation, the offence came to be registered against the applicants as stated above.

4. Applicants challenges the registration of offence against them on the ground that there is a matrimonial discord between Applicant No.1 and Non-applicant No.2. The divorce petition is already pending before the Civil Judge, Senior Division, Mehkar, District Buldhana. In the year 2022, Non-applicant No.2 without intimation left the house. However, Applicants by taking efforts with the help of police machinery search her out. Hence all allegation levelled against them are false. The Police complaint lodged against them is only with an intention to settled her personal score. Hence they prayed to quash and set aside the criminal proceeding registered against them.

5. Learned APP strongly opposed the Application. According to him, during the course of investigation statements are recorded. As per investigation, all the Applicants found to be involved in the alleged offence, therefore it is not a fit case for indulgence at this stage of the matter.

6. Non-applicant No.2 supported the submission made by learned APP and stated that statement recorded during the course of investigation and documents available on record establish the fact of active participation of applicants in the alleged offence. Hence, she prayed to reject the application.

7. We have heard the submission of rival parties and perused the entire record.

It is clear from record that Applicant No.1 on 29.06.2022 filed a divorce proceeding against Non-applicant No.2 bearing HMP No.125/2022, pending on the file of learned Civil Judge, Senior Division, Mehkar, District Buldhana. He has raised serious allegations against the Non-applicant No.2. Furthermore, it is clear that on 13.06.2022, Applicant No.1 lodged missing complaint of Non-applicant No.2 at

Police Station Sakharkheda, District Buldhana. Therefore, it is clear that there is a dispute since 29th June, 2022 between Applicant No.1 and Non-applicant No.2. Furthermore in the entire FIR and her statement, her main grievance is against the husband. She has specifically stated that her husband was doubting her character and out of that she was mercilessly beaten by him. It is evident from record that due to matrimonial discord, proceeding of divorce is pending. This fact suggest that there was a serious dispute between husband and wife. Hence, there is a reason to believe the allegations of Non-Applicant no.2 against her husband. At this stage, same cannot be denied.

8. The allegation against Applicant Nos.2 to 8 are of general nature namely they used to utter insulting language against her and never respected her as a daughter-in-law and further instigated her husband to cause more harassment to her. In support of this allegation, no details are given such as time, date, place and the nature of harassment. Hence, all allegation against relatives of husband are to be treated as vague and general in nature.

9. It is noticed that now a days in the proceedings arising out of matrimonial discord, there is tendency of wife to implicate the husband and his family members in the web of crime. The police complaint is considered in such matters as the only panacea to teach lesson to the family members of the husband. As such, only out of ulterior motive to settled personal score wife makes generalized and sweeping accusation unsupported by concrete evidence. As a result, the family members of husband has to face the agony of criminal trial, when no *prima facie* case is made out against them.

10. In the present case, there are no specific allegation disclosing date, time and place or manner in which alleged harassment meted out at the hands of relatives of family members. There are only allegations against husband i.e. applicant no.1.

11. In view of above, we are of the considered opinion that offence under Section 498-A, 323, 504, 506 and Section 34 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act is not at all attracted against the applicant nos. 2 to 8 who are the relatives of husband. Hence, we proceed to pass the following order.

ORDER

- i. Criminal application is partly allowed.
- ii. Criminal application is hereby rejected in respect of Applicant No.1.
- iii. Regular Criminal Case No. 330 of 2023 pending before the Judicial Magistrate First Class, Court No.1, Washim arising out of Crime No. 0251 of 2023 and charge-sheet No. 74 of 2023 for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code and Section 4 of Dowry Prohibition Act is hereby quashed and set aside against the applicant no.2 **Devidas S/o Shankar Aware**, applicant no.3 **Kamlabai W/o Devidas Aware**, applicant no.4 **Ranjana W/o Devidas Aware**, applicant no. 5 **Satish S/o Devidas Aware**, applicant no. 6 **Babita W/o Shantiram Thorat**, applicant no. 7 **Shantiram S/o Waman Thorat** and applicant no. 8 **Sandhya W/o Ashok Kamble**.

Rule is made absolute in aforesaid terms. No order as to costs.

[PRAVIN S. PATIL, J.]

[ANIL S. KILOR, J.]