



/SAGAR

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 4349 OF 2022

1. Najeem Mahamd Sayad  
Age : 31 years, Occupation : Service,  
Residing At : Ambi Khalsa Ghargaon,  
Tal. Sangamner  
District- Ahmadnagar-422620.
2. Shakila Mahammd Sayad  
Age-59 years, Occupation : Housewife  
Residing At : Ambi Khalsa Ghargaon,  
Tal. Sangamner  
District- Ahmadnagar-422620.
3. Mahamd Babulal Sayad  
Age : 77 years, Occupation : Nil,  
Residing At : Ambi Khalsa Ghargaon,  
Tal. Sangamner  
District- Ahmadnagar-422620.
4. Vasim Mahammad Sayyad  
Age : 32 years, Occupation : Service,  
Permanent address: Ambi Khalsa Ghargaon,  
Tal. Sangamner  
District- Ahmadnagar-422620.  
Current Address : Flat no.5, Kent Hill View Society  
Near Gagan Emerald, Saibabanagar,  
Kondhwa kuhrd, Pune-411 048.
5. Saba Vasim Sayyad  
Age 28 years, Occupation : Service  
Residing At : Flat no.5, Kent Hill View Society  
Near Gagan Emerald, Saibabanagar,  
Kondhwa kuhrd, Pune-411 048.

... Petitioners

V/s.

1. The State of Maharashtra  
At the instance of the

Kamothe Police Station,  
District- Navi Mumbai.

2. Kajal Najeem Sayad

Age : 26 years, Occupation : Household,  
Residing At : Singhgad Co-operative,  
Housing Society, Room No.103,  
Plot No. 3A, Sector No.7, Kamothe,  
Navi Mumbai

... Respondents

Mr. Jitendra Pathade, for the Petitioner.

Mr. Amit A. Palkar, APP for the Respondent- State.

Adv. Poonampal i/b Mr. Sachin Hande for Respondent No.2.

**CORAM : RANJITSINHA RAJA BHONSALE, J.**

**RESERVED ON : 21<sup>st</sup> JANUARY 2026**

**PRONOUNCED ON : 8<sup>th</sup> MAY 2026**

**JUDGMENT :-**

1) The Petitioners, by the present Petition filed under Article 226 of the Constitution of India and Section 482 of the Code of Criminal Procedure, 1973, have approached this Court, with a prayer that, FIR bearing No.157/2022 dated 1<sup>st</sup> July 2022, registered with Kamothe Police Station for the offences punishable under sections 498A, 406, 323, 504, 506 read with 34 of the Indian Penal Code, the consequent chargesheet bearing No. 21 of 2023 and Regular Criminal Case No. 190 of 2023 pending before the 4<sup>th</sup> Jt. Civil Judge Junior Division and Judicial Magistrate First Class, Panvel alongwith with all the further proceedings therein be quashed and set aside.

2) Heard Mr. Jitendra Pathade, learned Advocate for the Petitioner,

Mr. Amit A. Palkar, learned APP for the Respondent–State and Adv. Poonampal i/b Mr. Sachin Hande for Respondent No.2. Perused the entire record including the affidavit in reply, filed by the Respondent No.2.

3) As the present Petition arises out of a matrimonial dispute/discord, this Court, by an Order dated 19<sup>th</sup> March 2025, referred the parties for mediation. The report of the learned Mediator would indicate that, though various mediation meetings were conducted, the mediation unfortunately could not succeed.

4) Respondent No.2 is the Original Complainant. Petitioner No.1 is the husband of Respondent No.2. Petitioner No.2 is the mother-in-law, Petitioner No.3 is the father in law, Petitioner No.4 is the brother in law and Petitioner No.5 is the sister in law, of Respondent No.2.

5) The Respondent No.2, in the FIR has alleged as under:-

5.1) That, the marriage between Petitioner No.1 and Respondent No.2, took place on 23<sup>rd</sup> January 2022. That, Respondent No.2 and her family were aware and informed that, Petitioner No. 1 was a divorcee. That, the family of Respondent No.2 incurred all the marriage expenses. That, in the marriage, the father of Respondent No.2, gave gold ornaments and other articles, totally valued at Rs. 4,39,800/- to Respondent No.2. That, after the marriage, Petitioner Nos.2 and 3 started taunting the Respondent No.2, in respect of the gift articles got by Respondent No.2 during the wedding. That, on the day of the reception, the Petitioner Nos. 3 and 4 told the Respondent

No.2, to inform her father and arrange for a photographer for the reception function. That, when Respondent No.2 refused, the parents of the Respondent No. 2 were insulted for not arranging the photographer. That, according to the traditions, the Respondent No.2 was to go to her parental house on the first Thursday after the marriage. That, as Petitioner No.1 was at home on 27<sup>th</sup> January 2022, Petitioner No.2 did not allow Respondent No.2 to go to her parental house. That, when Respondent No.2 complained/raised an objection, Petitioner No.1 husband assaulted her and directed her listen to the Petitioner No.2. That, when Respondent No.2 complained of the said assault, to Petitioner Nos.2 and 3, she was orally abused by them.

5.2) That, Petitioner No.1 had taken custody of the mobile of the Respondent No.2 as he suspected that, Respondent No.2 was having an affair with somebody. That, the mobile of Respondent No.2, was operated by Petitioner No.1. That, Petitioner No.1, directed Petitioner Nos. 2 and 3, not to send Respondent No.2 to her parental house.

5.3) That, when the uncle of Respondent No.2 questioned the Petitioners, for their conduct i.e. why Respondent No.2 was not permitted to visit her parental house and talk on the mobile phone, Petitioner Nos. 2 and 3 send Respondent No.2 to her parental house. That, Petitioner No.1, called Respondent No.2 and abused her. That, Respondent No.2, had to immediately return to her matrimonial home. That, Respondent No.2 was neither permitted to talk to her parents nor allowed to visit her parents. On 11<sup>th</sup>

February 2022, Petitioner No.1 after his return from Pune, abused and assaulted Respondent No.2 as she had visited her parental house. That, Petitioner Nos.2 and 3, gave incorrect and false information to the Petitioner No.1.

5.4) That, Petitioner Nos. 4 and 5 came from Pune and on being informed of the incident by the Petitioners, abused the Respondent No.2. That, Petitioners mentally harassed and abused Respondent No.2, and made her to do all the household work etc. That, if she refused, she was abused and assaulted.

5.5) That, Petitioner No.1 was used to watching pornographic films. That, Petitioner No.1 used to force and insist Respondent No.2 to see pornographic films and act/conduct herself accordingly. That, as Respondent No.2 did not comply with the demands, Petitioner No.1, assaulted her with a blade on her hands and legs. That, though Respondent No.2 was bleeding due to the assault, Petitioner No.1 did not take her to the hospital for treatment and medical aid. That, when Respondent No. 2 complained of the conduct of Petitioner No.1, to Petitioner Nos. 2 and 3, she was abused and told to listen to the Petitioner No.1.

5.6) That, Petitioners used to abuse, taunt and mentally and physically harass Respondent No.2. That, due to the harassment, Respondent No.2 left the matrimonial home on 15<sup>th</sup> February 2022. That, on the insistence of Petitioner No.1, Respondent No. 2 returned to the matrimonial house on 24<sup>th</sup>

February 2022, but the harassment continued. Eventually, Respondent No.2 decided to leave the matrimonial house. At that time, all her gold ornaments i.e gold ornaments given in the marriage and the ornaments which Respondent No.2 had worn, were taken away by the Petitioner No.2. On 4<sup>th</sup> March 2022, Petitioner No.1 dropped Respondent No.2 at Chakan, where her brother picked her up and she along with her brother went to her father's house at Kamothe, Navi Mumbai.

5.7) That, on 19<sup>th</sup> June 2022 the Petitioners visited the Respondent No.2 at her father's house in Kamothe, Navi Mumbai. That, at that time, Petitioner No.1 tried to take the mangalsutra and mobile phone of Respondent No.2. On resisting, Respondent No.2, was assaulted by the Petitioner No.1, and an attempt was made to press her neck.

5.8) The Respondent No. 2, in the concluding paragraph of the FIR states that, she had handed over to the Petitioners, all her streedhan and other articles, in trust which were not returned to her when she was sent to her matrimonial home.

5.9) In this background the present complaint was filed on 19<sup>th</sup> June 2022 and the FIR came to be registered on 1<sup>st</sup> July 2022 under sections 498A, 406 , 323, 504, 506 and 34 of the Indian Penal Code.

6) Mr. Jitendra Pathade, learned Advocate appearing for the Petitioners, on instructions submitted that, he would be arguing the Petition and pressing for relief only on behalf of the Petitioner Nos.2 to 5.

6.1) Mr. Jitendra Pathade, the learned Advocate appearing for the Petitioners, would submit that, the allegations made against the Petitioner Nos. 2 to 5 in the FIR are vague, general in nature and made without any kind of details as to time and place etc. General allegations of abuse are made against Petitioner Nos. 2 to 5. That, Petitioner Nos. 4 and 5, in fact, stayed separately in different city i.e. Pune, and are a working couple employed in Pune. That, the days in respect of which the allegations are made, the Petitioner Nos. 4 and 5 were in Pune and at their work place. That, the worksheets of Petitioner Nos. 4 and 5 evidence the same. Even otherwise, the allegations against Petitioners Nos. 4 and 5, are general and vague. That, the allegations as against the Petitioner No. 2 and 3 are also of a general nature. The said allegations and conduct, do not make out any case against the Petitioner Nos. 2 to 5 for the offences punishable under Section 498A, 406, 323, 504, 506 read with 34 of the Indian Penal Code. That, the principles/guidelines as enumerated by the Hon'ble Supreme Court in the case of *Bhajan Lal Vs. State of Maharashtra reported in 1992 Supp(1) SCC 335* are squarely applicable.

7) Ms. Poonampal, learned Advocate appearing for the Respondent No.2, on the other hand would submit that, the allegations are specific and that a case is made out against all the Petitioners. That, as against the Petitioner No.1, there is a specific case of assault. That, Petitioner Nos. 2 to 5, have at all times supported the Petitioner No.1. That, it was the second

marriage of the Petitioner No.1. That, Petitioners are habitual offenders, as the first wife of Petitioner No.1 i.e Mushra Najim Sayyad had also filed similar proceedings under Section 498A, 323, 506 read with 34 of the Indian Penal Code against the Petitioners on 17<sup>th</sup> September 2021. That, in those proceedings Najeem Mohamd Sayad, Shakila Mahammd Sayad, Mahamd Babulal Sayad, Vasim Mahammad Sayyad were made party. That, it was only pursuant to a compromise that, the accused were discharged from the offences.

8) Learned APP appearing for the State, supported the case of the Respondent No.2. He further submitted that, the statements of the mother, brother, father and uncle have been recorded, which support the case of the prosecution.

9) Before I proceed to consider the facts of the present case, it would be necessary to refer to the judgments of the Hon'ble Supreme in matters pertaining to quashing of criminal prosecutions filed under Section 498A of the Indian Penal Code.

9.1) The Hon'ble Supreme Court in the case of *State of Karnataka v. L. Muniswamy* reported in (1977) 2 SCC 699 has observed that:-

*"7. .... In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to*

*achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered according to laws made by the legislature. The compelling necessity for making these observations is that without a proper realisation of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice, between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction.”*

9.2) The Hon'ble Supreme Court in the landmark case of *State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426 has in paragraph-102, after referring to the series of decisions relating to the exercise of the extraordinary power under Article 226 and the inherent powers under Section 482 of the Code of Criminal Procedure given the categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice.

The categories mentioned in paragraph-102 of the Judgment are as under:

*(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*

*(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable*

*offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*

*(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*

*(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.*

*(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*

*(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*

*(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.*

9.3) The Hon'ble Supreme Court in the case of *B.S. Joshi vs. State of Haryana*, reported in (2003) 4 SCC 475 has observed that:-

*“14. There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to [punish the] husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry.”*

9.4) The Hon'ble Supreme Court in the case of *Preeti Gupta Vs. State*

of *Jharkhand* reported in (2010) 7 SCC 667 has observed that:

“32. 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 is also a matter of serious concern.

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinised with great care and circumspection.”

9.5) The Hon'ble Supreme Court in the case of *Geeta Mahrotra V. State of U. P.* reported in (2012) 10 SCC 741 has observed that:

“20. Coming to the facts of this case, when the contents of the FIR are perused, it is apparent that there are no allegations against Kumari Geeta Mehrotra and Ramji Mehrotra except casual reference of their names which have been included in the FIR but mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specially if it happens soon after the wedding.”

9.6) In Hon'ble Supreme Court in the case of *K. Subba Rao v. State of Telangana*, reported in (2018) 14 SCC 452, has observed that:

"6. Criminal proceedings are not normally interdicted by us at the interlocutory stage unless there is an abuse of the process of a court. This Court, at the same time, does not hesitate to interfere to secure the ends of justice. See *State of Haryana v. Bhajan Lal*<sup>2</sup>. The courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out. See *Kans Raj v. State of Punjab* [*Kans Raj v. State of Punjab*<sup>3</sup> and *Kailash Chandra Agrawal v. State of U.P.*<sup>4</sup>."

9.7) The Hon'ble Supreme Court in the case of *Kahkashan Kausar alias Sonam and others v. State of Bihar and others* reported in (2022) 2 SCC 684 has observed that:

"12. This court in its judgment in *Rajesh Sharma v. State of U.P.*, has observed: (SCC pp. 478-79, para 14)

"14. Section 498-A was inserted in the statute with the laudable object of punishing cruelty at the hands of husband or his relatives against a wife particularly when such cruelty had potential to result in suicide or murder of a woman as mentioned in the Statement of Objects and Reasons of Act 46 of 1983. The expression "cruelty" in Section 498-A covers conduct which may drive the woman to commit suicide or cause grave injury (mental) or physical) or danger to life or harassment with a view to coerce her to meet unlawful demand. It is a matter of serious concern that large number of cases continue to be filed under Section 498-A alleging harassment of married women. We have already referred to some of the statistics from the Crime Records Bureau. This Court had earlier noticed the fact that most of such complaints are filed in the heat of the moment over trivial issues. Many of such

*complaints are not bona fide. At the time of filing of the complaint, implications and consequences are not visualised. At times such complaints lead to uncalled for harassment not only to the accused but also to the complainant. Uncalled for arrest may ruin the chances of settlement."*

13. *Previously, in the landmark judgment of this Court in Arnesh Kumar v. State of Bihar, it was also observed: (SCC p. 276, para 4)*

*" 4. There is a phenomenal increase in matrimonial disputes in recent years. The Institution of marriage is greatly revered in this country. Section 498-A IPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-A IPC is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In quite a number of cases, bedridden grandfathers and grandmothers of the husbands, their sisters living abroad for decades are arrested."*

17. *The abovementioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of Section 498-A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long-term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this Court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them."*

9.8) The Hon'ble Supreme Court in the case of *Geddani Jhansi and*

*Another V. State of Telangana and Others* reported in (2025) SCC OnLine SC

263 has observed that:

*“31. Invoking criminal process is a serious matter with penal consequences involving coercive measures, which can be permitted only when specific act(s) which constitute offences punishable under the Penal Code or any other penal statute are alleged or attributed to the accused and a prima facie case is made out. It applies with equal force when criminal laws are invoked in domestic disputes. Criminalising domestic disputes without specific allegations and credible materials to support the same may have disastrous consequences for the institution of family, which is built on the premise of love, affection, cordiality and mutual trust. Institution of family constitutes the core of human society. Domestic relationships, such as those between family members, are guided by deeply ingrained social values and cultural expectations. These relationships are often viewed as sacred, demanding a higher level of respect.*

*32. We have to keep in mind that in the context of matrimonial disputes, emotions run high, and as such in the complaints filed alleging harassment or domestic violence, there may be a tendency to implicate other members of the family who do not come to the rescue of the complainant or remain mute spectators to any alleged incident of harassment, which in our view cannot by itself constitute a criminal act without there being specific acts attributed to them. Further, when tempers run high and relationships turn bitter, there is also a propensity to exaggerate the allegations, which does not necessarily mean that such domestic disputes should be given the colour of criminality.*

*34. For a matrimonial relationship which is founded on the basis of cordiality and trust to turn sour to an extent to make a partner to hurl allegations of domestic violence and harassment against the other partner, would normally not happen at the spur of the moment and such acrimonious relationship would develop only in course of time. Accordingly, such a situation would be the culmination of a series of acts which turns, otherwise an amicable relationship, into a fractured one. Thus, in such cases involving*

*allegations of domestic violence or harassment, there would normally be a series of offending acts, which would be required to be spelt out by the complainant against the perpetrators in specific terms to rope such perpetrators in the criminal proceedings sought to be initiated against them. Thus, mere general allegation of harassment without pointing out the specifics against such perpetrators would not suffice, as is the case in respect of the present appellants.*

*35. We are, thus, of the view that in criminal cases relating to domestic violence, the complaints and charges should be specific, as far as possible, as against each and every member of the family who are accused of such offences and sought to be prosecuted, as otherwise, it may amount to misuse of the stringent criminal process by indiscriminately dragging all the members of the family. There may be situations where some of the family members or relatives may turn a blind eye to the violence or harassment perpetrated to the victim. and may not extend any helping hand to the victim, which does not necessarily mean that they are also perpetrators of domestic violence. unless the circumstances clearly indicate their involvement and instigation. Hence, implicating all such relatives without making specific allegations and attributing offending acts to them and proceeding against them without prima facie evidence that they were complicit and had actively collaborated with the perpetrators of domestic violence, would amount to abuse of the process of law.*

*36. Our observations, however, should not be generalised to mean that relatives cannot be brought under the purview of the aforesaid penal provisions when they have actively participated in inflicting cruelty on the daughter-in-law/victim. What needs to be assessed is whether such allegations are genuine with specific criminal role assigned to such members of the family or whether it is merely a spill over and side-effect of a matrimonial discord and allegations made by an emotionally disturbed person. Each and every case of domestic violence will thus depend on the peculiar facts obtaining in each case.*

9.9) The Hon'ble Supreme Court in the case of *Dara Laxmi Narayana*

V/S State Of Telangana reported in 2025 3 SCC 735 has observed that:-

*“27. A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognised 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 generalised 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. In the present case, Appellants 2 to 6, who are the members of the family of Appellant 1 have been living in different cities and have not resided in the matrimonial house of Appellant 1 and Respondent 2 herein. Hence, they cannot be dragged into criminal prosecution and the same would be an abuse of the process of the law in the absence of specific allegations made against each of them.*

*30. The inclusion of Section 498-AIPC by way of an amendment was intended to curb cruelty inflicted on a woman by her husband and his family, ensuring swift intervention by the State. However, in recent years, as there have been a notable rise in matrimonial disputes across the country, accompanied by growing discord and tension within the institution of marriage, consequently, there has been a growing tendency to misuse provisions like Section 498-AIPC as a tool for unleashing personal vendetta against the husband and his family by a wife. Making vague and generalised allegations during matrimonial conflicts, if not scrutinised, will lead to the misuse of legal processes and an encouragement for use of arm twisting tactics by a wife and/or her family. Sometimes, recourse is taken to invoke Section 498-AIPC against the husband and his family in order to seek compliance with the unreasonable demands of a wife. Consequently, this Court has, time and again, cautioned against prosecuting the husband and his family in the absence of a clear prima facie case against them.”*

9.10) The Hon'ble Supreme Court in the case of *Ghanshyam Soni Vs. State (Govt. of NCT of Delhi) and Another* reported in (2025) 7 SCC OnLine SC 1301 has observed that :

*"11. As regards the Appellant, the purportedly specific allegations levelled against him are also obscure in nature. Even if the allegations and the case of the prosecution is taken at its face value, apart from the bald allegations without any specifics of time, date or place, there is no incriminating material found by the prosecution or rather produced by the complainant to substantiate the ingredients of "cruelty" under section 498A IPC, as recently observed in the case of Jaydedeepsinh Pravinsinh Chavda v. State of Gujarat and Rajesh Chaddha v. State of Uttar Pradesh. The Complainant has admittedly failed to produce any medical records or injury reports, x-ray reports, or any witnesses to substantiate her allegations. We cannot ignore the fact that the Complainant even withdrew her second Complaint dt. 06.12.1999 six days later on 12.12.1999. There is also no evidence to substantiate the purported demand for dowry allegedly made by the Appellant or his family and the investigative agencies in their own prudence have not added sections 3 & 4 of the Dowry Prohibition Act, 1961 to the chargesheet.*

10) I shall now refer to Section 498A, 405 and 406 of the Indian Penal Code. Section 498A reads as under:-

*"498A. 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.*

*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.”*

11) Section 405 of the Indian Penal Code reads as under:-

**405. Criminal breach of trust.**—Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits “criminal breach of trust.”

12) Section 406 of the Indian Penal Code reads as under:-

**406. Punishment for criminal breach of trust.**—Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

13) In dealing with a prayer for quashing of a criminal proceeding filed under section 498A of the IPC, it has to be ascertained as to whether the alleged act of cruelty is of such a nature or kind or the willful conduct in such, so as to likely to drive the woman to commit suicide or inflict grave injury or damage to life, limb or health. The intent, the proximity to the act, the effect and repeated nature of the acts and conduct is required to be considered with pragmatic realities. One needs to be extremely cautious, act with care, and consider ground realities which prima facie emerge. As observed by the Hon’ble Supreme Court, on many occasions allegations are made against

relatives close and distant, who live in different cities, sometimes abroad and who visit or meet the parties on rare occasions, at weddings or social/festive gatherings. Such cases, have a different intent, motive and objective. In some cases, for various reasons, allegations of section 498A IPC are made immediately or shortly after the marriage and criminal prosecutions initiated. Such cases, require more scrutiny and are to be handled with greater care and caution. Generally, relatives are accused, based on general, vague and omnibus allegation, without any details of specific instances of their involvement in the alleged crime. It is most pertinent to keep one reminded of the observations of the Hon'ble Supreme Court in the case of *Preeti Gupta (supra)* that “----must take pragmatic realities into consideration while dealing with matrimonial cases.”

14) Perusal of section 498A of the Indian Penal Code would indicate that, the section can be invoked by a women against her husband or a relative of the husband who subjects the women to cruelty. The crux of the section is that, the husband or the relative has subjected the women to cruelty. The explanation to section 498-A of the IPC, defines or explains the term cruelty, to mean a willful conduct 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 (mental or physical) of the woman or an act of harassment undertaken with a view to coercing the women or a person related to her to meet any unlawful demand of property or valuable security or on account of the failure by the

women or person related to her to meet such unlawful demand. To come within the term “cruelty” the act has to be a intentional and willful conduct, which is of such a nature and extent that it drives a women to commit suicide or cause grave injury or danger to life, limb or health, mental or physical or a harassment to meet a unlawful demand of property or her failure to meet the unlawful demand. Any and very act of misconduct, or an argument or quarrel or fight between a husband and wife or between the relatives of the husband and the wife of the husband, in the normal course or otherwise cannot be termed and come within the definition of cruelty. Even otherwise an act of seeking genuine financial assistance or help for personal or business reasons, cannot be termed as cruelty. For the act of the husband or the relative, to come within the meaning of “cruelty” the same has to be with an particular intent, motive and objective i.e to drive the women to commit suicide or cause grave injury to life or limb. The act cannot be a stray act or a one-off act. The intent and severity of the act has to be one, which drives the women to commit suicide or cause grave injury. Likewise the harassment has to be with the intent and object of make and receiving or if it may be termed “extracting” an unlawful demand of property.

15) Perusal of the FIR would indicate that, some allegations are against the Petitioner No.1. The Petitioner No.1 though a party to the present proceeding, is not pressing for any reliefs. As far as the allegations made against the Petitioner No. 2 and 3 are concerned, the same are general in

nature. The allegation against the Petitioner No.2 appears to be that the gold jewellery of Respondent No.2 was taken away by Petitioner No.2. The same appears to be, in fact, contradicted by the Respondent No.2 herself in the FIR. In the concluding paragraph, Respondent No.2 has categorically stated that, the jewellery was at all times kept with the Petitioner No. 2 and then to make allegations that, on 4<sup>th</sup> March 2022, when the Respondent No. 2 was leaving the matrimonial home, Petitioner No 2 took all the jewellery of Respondent No.2 including the jewellery which the Respondent No.2 was wearing at the said time, prima facie indicates the malafide, vexatious and dishonest intention of the Respondent No. 2. The said allegations are contradictory, self destructive and appear to be incorrect. The other allegations against the Petitioner No.2 and 3 are general and vague in nature, without details and cannot be the basis of a criminal prosecution for the sections as alleged. The allegations against Petitioner Nos. 4 and 5 are that, they came from Pune and visited the house of the Petitioner Nos. 1 to 3, and abused the Respondent No.2 prima facie appears to be vague, general and incorrect. The said allegations, even if accepted in their entirety, in my opinion are not sufficient to make out any criminal offence much less on offence under Section 498A of the IPC as alleged against the Petitioner Nos. 4 and 5. The Petitioner No 4 and 5 have also annexed to the Petition, their attendance report of their workplace, which indicates that, on 11<sup>th</sup> February 2022, the Petitioner No 4 and 5 were in fact in Pune. The Petitioner Nos. 4 and 5, have at all times

resided at Pune for employment.

16) I find the allegations against the Petitioner Nos. 2 to 5 general in nature and vague. The main issue and allegations seem to be against the Petitioner No.1, the husband arising out of matrimonial issues. As the reliefs are not pressed on behalf of the Petitioner No. 1 husband, I am not considering the said allegations nor making observation on the merits of the said allegations.

17) I am of the opinion that, the reference to the names of the Petitioner Nos. 2 to 5, appear to be taken as they are the close relatives of the Petitioner No.1. It appears that, being a matrimonial dispute, the names of the close relatives have been included. The allegations against the Petitioners are that of abuse and assault without any details etc. The other allegation, is that, of supporting the Petitioner No.1. As regards the allegation of making the Respondent No. 2 to do all the work the same is again a vague and general allegation.

18) It appears that the names of the Petitioner Nos. 2 to 5 have been included in the FIR in a usual and casual manner as is done in a matrimonial dispute. There are vague and general allegations without details or any indication of any involvement or acts as required and envisaged under section 498A of the Indian Penal Code. I say this for one more reason. It is the case of the Respondent No. 2, that she left the matrimonial home on 15<sup>th</sup> February 2022, and returned on 24<sup>th</sup> February 2022 at the request of the Petitioner

No.1. It is not any unusual conduct, and also may be an acceptable conduct considering the Indian traditions, but the said conduct would surely make the allegations against the Petitioner Nos. 2 to 5 questionable, and therefore also doubtful.

19) In my opinion, in the present case, no case is made out against the Petitioner Nos. 2 to 5 for the offence of section 498A of the Indian Penal Code. In the present case, if the allegations are taken at face value and accepted in their entity, the same fail to meet or invoke the required ingredients of Section 498A of the IPC. The allegations apart from being vague and general in nature, are not person specific. Bald, sweeping allegations which are unsupported by credible material cannot be the basis to invoke the provisions of Section 498A of the IPC. In my opinion, what is alleged are some disagreements or a difference in a point of view in the normal course of living as a family. By no stretch of imagination can the allegations in the FIR, be termed as acts of cruelty on the part of the Petitioner Nos. 2 to 5. To not react, or a refusal to actively take sides of Respondent No. 2 or being a passive spectator, cannot be the basis to invoke the provisions of Section 498A of the IPC. A parents or relative, caught between the crossfire of allegations by and between two adults in a relationship of marriage, and who chooses to remain quiet, cannot be roped in an offence under Section 498A of the IPC. As stated above the act of cruelty has to be a positive act, with the intent and object as envisaged under Section 498A of the IPC and none other.

In the present case, I find no credible material to support the allegations.

20) I find that, the allegations in respect of Section 406 of the IPC are self contradictory and self destructive. To attract the provisions of or to make out an offence under section 406 of the Indian Penal Code, it was necessary for Respondent No. 2 to show and make out a prima facie case of entrustment of property. In the present case, in the entire Complaint, there is no averment or contention that, the gold ornaments were entrusted to or kept in the custody of the Petitioner No.2 or the Petitioners. In the FIR, the specific allegation against Petitioner No. 2, is in fact, to the contrary. The specific allegation is that, on 4<sup>th</sup> March 2022, when Respondent No.2 was leaving the matrimonial home, the Petitioner No. 2 removed and/or took all the gold ornaments which were given to the Respondent No. 2 in the wedding and also the ornaments which the Respondent No.2 was wearing at the relevant time. I find that, it is only in the concluding paragraph and as a conclusion that, the Respondent No.2 has alleged that, all her streedhan, gold ornaments and all home appliances/gift articles given by her father at the time of the wedding, were handed over and given in the possession of all the Petitioners out of trust. There is no pleadings or allegation, it is only a conclusion. It prima facie appears that, the allegation is made only with the intention of implicating all the Petitioners and an attempt to somehow make out a case under Section 406 of the IPC against all the Petitioners. The said allegation is against all the Petitioners and at the same time, the additional allegation against the

Petitioner No.2 is that, she took away all jewellery and articles, which in my opinion, prima facie cannot be sustained. In my opinion, the allegations in respect of the offence criminal breach of trust are contrary, self destructive and made with the sole object and intention to falsely implicate and rope in all the Petitioners for the offence of section 406 of the Indian Penal Code. On the basis of the said allegations, the intention and object of falsely implicating the husband and his relatives cannot be ruled out. Prima facie, the FIR appears to be a sheer abuse and misuse of the process of law. Considering the contents of the FIR, I am of the opinion that no case is made out under Section 406 or 498A of the IPC.

21) The allegations being general, vague and without details or supporting, in my opinion, it is not a case, where cognizance should be taken by ignoring the general practice in matrimonial matters to involve the entire family members of husband in a matrimonial dispute either to harass the family or seek a convenient settlement. In my view, an attempt is made to rope in the relatives of the husband on the basis of general, vague and omnibus allegations.

22) After considering the aforestated law as laid down by the Hon'ble Supreme Court and after considering the contents of the complaint in my view, the present case is squarely covered by categories 1, 3 and 5 as mentioned in paragraph 102 of the judgment of the Hon'ble Supreme Court in the case of *Bhajan lal V/s State of Haryana (Supra)*. Permitting the criminal

prosecution to continue and allowing the Petitioner Nos. 2 to 5 to face and undergo a full fledged criminal trial will amount to a sheer abuse of the process of law. I find that no prima facie case is made out against the Petitioner Nos 2 to 5. There is no material or prima facie evidence to attract and or substantiate the ingredients of "cruelty" as required under section 498A of IPC or entrustment under Section 406 of the IPC. Even the other offences as alleged are not made out.

23) In view of the aforesaid facts and circumstances, I am of the opinion that, a case has been made out for quashing the criminal proceedings as against the Petitioner Nos. 2 to 5. I am of the opinion that considering the allegations and the material on record not even a prima facie case under section 498A of the IPC can said to be made out. Hence, in the interest of justice and to prevent the abuse of the process of law, I am inclined to quash the proceedings as against the Petitioner Nos. 2 to 5, by exercising the powers under section 482 of the Code of Criminal Procedure, 1973. As against the Petitioner No.1 the petition is not pressed on instructions.

24) In view of the above the following order is passed:-

- (i) The Petition is allowed in terms of prayer clause 'a' and 'f' as against the Petitioner Nos. 2 to 5 only. The criminal proceedings being FIR bearing C.R. No. 157 of 2022 registered at Kamothe Police Station and Chargesheet bearing No. 21 of 2023

and further proceedings bearing Regular Criminal  
Case No. 190 of 2023 shall continue as against the  
Petitioner No.1.

(ii) No order as to cost.

(**RANJITSINHA RAJA BHONSALE, J.**)

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