

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL WRIT PETITION NO. 1158 OF 2021**

Mrs. [REDACTED] N [REDACTED] G [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] 410 218. ...Petitioner.

V/s.

1. The State of Maharashtra,  
(Through Revdanda Police Station,  
Alibag).
2. Mrs. [REDACTED]  
[REDACTED]  
[REDACTED]  
Alibag, Raigad. ...Respondents

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Mr. Prashant Maggu i/b. Sujender Yadav for the Petitioner.  
Mr. Amit A. Palkar, APP for the Respondent-State.  
Ms. Pranali Kakade for Respondent No.2.

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

**RESERVED ON : 24<sup>th</sup> February 2026.**

**PRONOUNCED ON : 10<sup>th</sup> June 2026.**

**JUDGMENT :-**

- 1) The present Petition is filed under Articles 226 and 227 of the Constitution of India and section 482 of the Code of Criminal Procedure,

1973 seeking to quash and set aside R.C.C. No.43/2020 arising out of FIR No.83/2019 dated 7<sup>th</sup> October 2019 registered with Revdanda Police Station, Alibag for the offences under sections 498-A, 107, 323, 504, 506 read with section 34 of the Indian Penal Code (IPC).

2) The case of the prosecution as alleged in the FIR is as under: -

2.1) The present FIR is filed by Respondent No.2 under section 498-A, 107, 323, 504, 506 read with section 34 of the Indian Penal Code against the accused No.1 i.e. [REDACTED], accused No.2 i.e. [REDACTED] (Petitioner), accused No.3 i.e. [REDACTED], accused No.4 [REDACTED], accused No.5 i.e. [REDACTED] and accused No.6 [REDACTED]. Perusal of the FIR would indicate that, Respondent No.2 and accused No.1 got married on 2<sup>nd</sup> February 2019. That, a dowry of 3 lacs was given in addition to household articles such as fridge, TV, washing machine, AC and furniture. That, Respondent No.2 and accused No.1 along with other family member of accused No.1 were residing together. That, immediately, three days after the marriage, accused No.1 started harassing Respondent No.2 on petty issues. That, accused No.1 used to leave his house early in the morning at 7.00 a.m. and return only after 9.00 p.m. and upon being queried, accused No.1 used to abuse Respondent No.2. That, accused No.1 used to spend time with the Petitioner who is the wife of his cousin brother. That, when Respondent

No.2 and accused No.1 went to Shirdi, accused No.1 instead of speaking to Respondent No.2 abused her and used to speak with the Petitioner. That, accused No.1 was having extra marital affair with the Petitioner. That, accused No.1 and Petitioner used to chat on the phone. That, accused No.1 has engraved the name of son of Petitioner on his hand. Upon being questioned by Respondent No.2, accused no.1 used to threaten to leave Respondent No.2.

2.2) That, accused No.1 on various occasions demanded huge amounts of cash and a motorcycle from the brother of the Respondent No.2. On being met with denials in respect of the demands, Respondent No.2 was assaulted. That, accused No.1 used to harass Respondent No.2 for non-fulfillment of demands of handing over her gold ornaments for making a bracelet for himself. That, the accused No.1 demanded an amount of Rs 2,00,000/- from the father of the Respondent No.2 for starting a car business. That, accused No.1 used to not talk to Respondent No.2 and sleep in the hall. That, on 23<sup>rd</sup> June 2019, accused No.1 abused and assaulted Respondent No.2, following which Respondent No.2 had filed a complaint bearing No.1375 of 2019 under section 323, 504, 506 of the IPC with the Kalamboli Police Station. That, Respondent No.2 stayed at the matrimonial home only from 2<sup>nd</sup> February 2019 to 20<sup>th</sup> April 2019 and thereafter from 27<sup>th</sup> May 2019 to 23<sup>rd</sup> June 2019. Based on these

allegations, the present FIR came to be filed. The present petition is filed by original accused No. 2.

3) Heard Mr. Maggu, learned Advocate for the Petitioner, Ms. Kakade, learned Advocate for Respondent No.2 and the learned A.P.P. for the State.

4) Before, considering the facts of the present case, it may be helpful to refer to section 498A and 107 of the Indian Penal Code to understand the ingredients and requirements in law to invoke the said section.

4.1) Section 498-A 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. 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 relative to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person relative to her to meet such demand.”*

4.2) Section 107 reads as under:-

*“Section 107 Abetment of a thing—*

*A person abets the doing of a thing, who-*

*First.—Instigates any person to do that thing; or*

*Secondly.—Engages with one or more other person or persons in any*

*conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or*

*Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.*

*Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.*

*Illustration.—A, a public officer, is authorised by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.*

*Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.”*

5) Some of the judgments of the Hon'ble Supreme Court in matters pertaining to quashing of criminal prosecutions filed under Section 498A of the Indian Penal Code are as under:-

5.1) 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.”*

5.2) The Hon’ble Supreme Court in the case of *B.S. Joshi V. State of Haryana*, reported in (2003) 4 SCC 675, 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 [punishing] husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry.”*

5.3) The Hon’ble Supreme Court in the case of *Preeti Gupta v. State of Jharkhand*, (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 complaint are required to be scrutinised with great care and circumspection."*

5.4) The Hon'ble Supreme Court in the case of *Geeta Mehrotra 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."*

5.5) The 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. ....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....."*

5.6) The Hon'ble Supreme Court in the case of *Kahkashan Kausar Alias Sonam And Others V. State Of Bihar And Others* reported in (2022) 6

SCC 599 has observed that:-

*"12. This court in its judgment in Rajesh Sharma v. State of U.P (2018) 10 SCC 472 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 (2014) 8 SCC 273, 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."*

5.7) The Hon'ble Supreme Court in the case of *Payal Sharma Versus State of Punjab and Another* reported in (2024) SCC Online SC 3473 has observed that:-

*"11. In the decision in Geeta Mehrotra v. State of U.P., this Court held that 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 tendency of over implication viz., to draw the entire members of the household in the domestic quarrel resulting in matrimonial dispute, especially when it happens soon after the wedding. In the decision in Kahkashan Kausar @ Sonam v. State of Bihar, this Court quashed proceedings in so far as family members of the husband on the ground that the allegations against them are general and ominous in nature. In matters like the one at hand when relatives not residing in the same house where the alleged victim resides, the courts shall not stop consideration by merely looking into the question where the accused is a person falling*

*within the ambit of the expression 'relative' for the purpose of Section 498-A, IPC, but should also consider whether it is a case of over implication or exaggerated version solely to implicate such person(s) to pressurise the main accused. It is also relevant to refer to the decision of this Court in State of Haryana v. Bhajan Lal, wherein after considering the statutory provisions and the earlier decisions, this Court referred to various categories of cases where the inherent powers under Section 482, Cr. P.C. could be exercised by High Court to prevent abuse of process of Court or otherwise to secure ends of justice. One among such categories is where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent man could ever reach a just conclusion that there is sufficient ground for proceeding against an accused."*

5.8) 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, commitment and emotional investment.*

*"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.”*

5.9) 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.”*

5.10) The Hon’ble Supreme Court in the case of *Ghanshyam Soni Vs. State (Govt. of NCT of Delhi) and Another* reported in (2025) 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....”*

5.11) In the case of *Swapnaja D/o. Rangnath Gadre Vs. The State of*

*Maharashtra and Anr. in Criminal Application No. 388 of 2008* has held that :-

*“6. Considering the rival contentions and the nature of allegations in the F. I. R., it appears that the applicant may be cause of the bickerings between the spouses. She may be the reason, which is at the bottom of misunderstanding between the respondent No. 2 and her husband. Even assuming that due to her extramarital relation with husband of the respondent No. 2, she is being ill-treated or subjected to harassment by her husband and his relatives, then also it is difficult to say that the applicant is accountable to answer the charge for offence punishable under Section 498-A of the I.P.C. For, she is not related to husband of the respondent No. 2 nor can be regarded as the person, who can fall within explanation (a) or (b) of Section 498-A of the I.P.C.”*

6) Perusal of section 498A of the Indian Penal Code would indicate that, the section can be invoked by a woman against her husband or a relative of the husband who subjects the woman to cruelty. The crux of the section is that, the husband or the relative has subjected the woman 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 woman or a person related to her to meet any unlawful demand of property or valuable security or on account of the failure by the woman or person related to her to meet such unlawful demand. To come within the term “cruelty” the act has to be an

intentional and willful conduct, which is of such a nature and extent that it drives a woman to commit suicide or cause grave injury or danger to life, limb or health, mental or physical or a harassment to meet an unlawful demand of property or her failure to meet the unlawful demand. Any and every 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. For the act of the husband or the relative, to come within the meaning of "cruelty" the same has to be with a particular intent, motive and objective i.e to drive the woman 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 have to be one which leaves the woman with no other alternative but 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.

7) Perusal of the FIR would indicate that, the main allegations made by Respondent No.2 against Petitioner inter alia are as under:

- i) At Shirdi, the Petitioner abused Respondent No.2 in the absence of the accused No.1.
- ii) The accused No.1 has an extra marital affair with

Petitioner and at her instance, accused No.1 used to abuse, threaten and assault Respondent No.2.

iii) When at Shirdi, accused No.1 was talking to the Petitioner. That, the name of the son of the Petitioner is engraved on the hand of the Petitioner.

iv) While the accused No.1 uploaded photos of the Petitioner on facebook, he did not upload photos of Respondent No.2.

iv) That, accused No.1 and the Petitioner used to chat on the phone.

v) When confronted, accused No.1 informed the Respondent No.2 that, if the time comes he would leave the Respondent No.2 and not the Petitioner.

8) Perusal of the FIR and the allegation therein, as against the Petitioner would indicate that, the allegations against the Petitioner apart from being general and vague in nature are based on suspicion. The Petitioner is the wife of the cousin brother of the accused No.1. The present FIR is filed against the accused No.1 and his immediate family members i.e father, mother and brothers. The allegations against the Petitioner are based on the suspicion that accused No.1 was having extra marital affair with the Petitioner. Perusal of the FIR and chargesheet does not indicate

that, the Petitioner was involved in any act of violence and cruelty against the Respondent No.2 or in the alleged demand of dowry. There are no details in respect of the allegation of abusing or instigating the accused No.1 to abuse or assault the Respondent No.2 at the instance of or instigation of the Petitioner. As regards the other allegations, there is no connection or relation or involvement of the Petitioner with the said allegations. Though, a relative the families are not staying together.

9) In the FIR , the Respondent No.2 has invoked section 323 of IPC i.e. voluntary causing hurt, section 504 of intentional insult with intent to provoke breach of peace and section 506 of criminal intimidation. Perusal of the allegations in the FIR would indicate that, as against the Petitioner, there is no allegation in respect thereof and therefore none of the said offences can be invoked against the Petitioner. There is no allegation in respect of section 323 against the present Petitioner. As regards sections 504 and 506 and section 107, the allegations are general and vague.

10) I have noted that, other than the Petitioner, the FIR has been filed against accused No.1/husband of Respondent No.2 and his relatives/immediate family members. All the allegations regarding section 498-A or the other sections are primarily made against accused No.1 and his relatives. Perusal of the FIR would indicate that, the present Petitioner

has been indicted in the present offence only on the basis of a mere suspicion. There is no basic material on which the suspicion can be based. The dispute fundamentally appears to be a matrimonial dispute. The issues are that between a husband and wife. The suspicion, it seems is based on the alleged fact that the accused No.1 was speaking/chatting with the Petitioner, and that the name of son of Petitioner was engraved by accused No.1 on his hand. If the Petitioner is considered a relative being the wife of the cousin brother, then in that event her son would be the nephew of accused No.1. The act of talking or chatting with the Petitioner or accused no.1 engraving the name of her son, cannot in my opinion, be considered as an act to come within the meaning of the terms "cruelty" as is defined by the the explanations to section 498A of the Indian Penal Code. To term the same, as an act of cruelty, the FIR should prima facie show the intention and intensity of the acts. The "cruelty" inflicted should be such that it drives the woman to commit suicide or cause grave injury to herself or lead to such a conduct that causes grave injury or danger to life, limb or health. The second part deals with harassment with a view to satisfy the unlawful demand of property or valuable security. In the present case, there is no allegation against the Petitioner in respect of any dowry demand etc. If all the allegations in the FIR are considered together and collectively, in my opinion no case is made out against the Petitioner under

section 498A of the Indian Penal Code. When the allegations in the FIR are considered, it prima facie appears that the main brunt of the allegations is against the accused No.1 and his conduct. The allegations against the accused No.1 are of assault, abuse, demand of dowry, harassment for non-fulfillment of demands of dowry. The chargesheet would indicate that there are CDR between the accused No.1 and the Petitioner, without any transcripts. There is no other cogent material or evidence to base the said suspicion. Considering the facts and circumstances of the present case, and material on record, in my opinion the allegations based on mere suspicion and other similar allegations cannot be termed as cruelty within the meaning of section 498-A of the Indian Penal Code.

11) I find the allegations against the Petitioner are general in nature and vague. The main issue and allegations seem to be against the accused No. 1 husband arising out of matrimonial issues and differences. As the husband is not a party to the present petition, I am neither considering the said allegations nor making any observations on the merits thereof.

12) I am of the opinion that, the name of the Petitioner, appears to be taken as the Petitioner is a relative of accused No.1 i.e wife of cousin brother. The name of the Petitioner appears to be included in the FIR in a usual and casual manner and on the basis of mere suspicion as is done in a

matrimonial dispute. In my opinion suspicion should be based on reliable material so as to form basis of cogent and legal evidence at the trial. The material should be such that, it can be translated into legal evidence at the trial. In the present case, the record and allegations in the FIR would indicate that the suspicion is based on the moral notions of the Respondent No. 2. It appears that, the suspicion is the subjective analysis of the conduct of the Accused No. 1 and the subjective satisfaction based on the moral notions of the Respondent No. 2. In my opinion, the suspicion should apart from being based on cogent material be such that makes the court sit back and think at the very first instance. The suspicion should be based and premised on material which prima facie indicates that, it is sufficient to prima facie conclude that a offence is made out and to warrant a trial. One must at all times remember that mere unfounded suspicion cannot substitute legal or cogent evidence.

12.1) The Hon'ble Supreme Court in the case of *K.V. Prakash Babu v. State of Karnataka* reported in (2017) 11 SCC 176 has observed that :-

*“14. Slightly recently in Ghusabhai Raisangbhai Chorasiya v. State of Gujarat<sup>5</sup>, the Court perusing the material on record opined that even if the illicit relationship is proven, unless some other acceptable evidence is brought on record to establish such high degree of mental cruelty the Explanation (a) to Section 498-A IPC which includes cruelty to drive the woman to commit suicide, would not be attracted. The relevant passage from the said authority is reproduced below: (SCC pp. 759-60, para 21)*

*“21. ...True it is, there is some evidence about the illicit*

*relationship and even if the same is proven, we are of the considered opinion that cruelty, as envisaged under the first limb of Section 498-A IPC would not get attracted. It would be difficult to hold that the mental cruelty was of such a degree that it would drive the wife to commit suicide. Mere extra-marital relationship, even if proved, would be illegal and immoral, as has been said in Pinakin Mahipatray Rawal<sup>t</sup>, but it would take a different character if the prosecution brings some evidence on record to show that the accused had conducted in such a manner to drive the wife to commit suicide. In the instant case, the accused may have been involved in an illicit relationship with Appellant 4, but in the absence of some other acceptable evidence on record that can establish such high degree of mental cruelty, the Explanation to Section 498-A IPC which includes cruelty to drive a woman to commit suicide, would not be attracted.”*

*15. The concept of mental cruelty depends upon the milieu and the strata from which the persons come from and definitely has an individualistic perception regard being had to one's endurance and sensitivity. It is difficult to generalise but certainly it can be appreciated in a set of established facts. Extra-marital relationship, per se, or as such would not come within the ambit of Section 498-A IPC. It would be an illegal or immoral act, but other ingredients are to be brought home so that it would constitute a criminal offence. There is no denial of the fact that the cruelty need not be physical but a mental torture or abnormal behaviour that amounts to cruelty or harassment in a given case. It will depend upon the facts of the said case. To explicate, solely because the husband is involved in an extra-marital relationship and there is some suspicion in the mind of wife, that cannot be regarded as mental cruelty which would attract mental cruelty for satisfying the ingredients of Section 306 IPC.”*

13) In my opinion, in the present case, no case is made out against

the Petitioner for the offence of section 498-A, 107, 323, 504, 506 and 34 of the Indian Penal Code. In the present case, the allegations are taken at face value and accepted in their entirety, fail to meet or invoke the required ingredients of Section 498-A of the IPC. Bald, sweeping allegations which are unsupported by credible material and based on mere suspicion cannot be the basis to invoke the provisions of Section 498-A of the IPC. The allegations are vague, general in nature and devoid of material particulars. In my opinion, such allegations cannot, by any stretch of imagination, be termed as acts of cruelty as envisaged under Section 498-A of the Indian Penal Code. As stated above the act of cruelty has to be a positive act, with the intent and object as envisaged under Section 498-A of the IPC and none other. In the present case, I find no credible material to support the allegations.

14) Considering the above facts and circumstances, I am of the opinion that no case is made out against the Petitioner. Considering the facts, circumstances and the material on record, in my opinion this is a fit case to invoke the inherent powers under section 482 of the Code of Criminal Procedure and quash the present criminal proceedings as against the Petitioner.

15) The perusal of the FIR indicates that, the entire discord is between the Respondent No.2 and her husband/accused No.1. The crux of

the allegations in the FIR mainly revolves against accused No.1. The accused No.1 husband is not before this Court nor has he filed any separate Petition for quashing. The chargesheet has been filed against other accused and the trial will proceed in accordance with law.

16) In view thereof, the following order is passed:-

- i) The criminal proceeding being R.C.C. No.43/2020 arising out of FIR No.83/2019 dated 7<sup>th</sup> October 2019 registered with Revdanda Police Station, Alibag is quashed and set aside as against the Petitioner only.
- ii) The criminal proceeding being R.C.C. No.43/2020, pending before the Chief Judicial Magistrate, Raigad at Alibaug shall proceed as against the other co-accused.

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