

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2578 OF 2018

1. Mrs. Swati Raosaheb More
[Mrs. Swati Sunny Dimber]
Age : 28 years, Occupation : Student,
Residing At : S. No.66/6, Renuka Niwas,
Near Dugad School, Sacchai Mata Nagar,
Ambegoan Khurd, Katraj, Pune-411037
2. Mrs. Jayshree @ Suman Raosaheb More
Age : 48 years, Occupation : House-wife,
Residing At : S. No.66/6, Renuka Niwas,
Near Dugad School, Sacchai Mata Nagar,
Ambegoan Khurd, Katraj, Pune-411037
3. Mr. Deepak Raosaheb More
Age : 30 years, Occupation : Service,
Residing At : S. No.66/6, Renuka Niwas,
Near Dugad School, Sacchai Mata Nagar,
Ambegoan Khurd, Katraj, Pune-411037

... Petitioners

V/s.

1. The State of Maharashtra
Through Dattawadi Police Station,
2. Mrs. Shailaja Suresh Dimber
Age : 56 years, Occupation : House-wife,
Residing At : M 15/528, Laxminagar,
Shahu College Raod, Parvati,
Pune-411009

... Respondents

Ms.Radhika Samant with Pooja Bhide for the Petitioners.
Ms.S.S.Kaushik, APP for the Respondent No.1-State
Mr.Himanshu Nagarkar with Kajal S. for the Respondent No.2.

CORAM : RANJITSINHA RAJA BHONSALE, J.

RESERVED ON : 26th FEBRUARY 2026

PRONOUNCED ON : 10th JUNE 2026

JUDGMENT :-

1) The Petitioners, by the present Petition under Article 226 of the Constitution of India and 482 of the Code of Criminal Procedure, seeks to quash and set aside the C.R. No. 232 of 2017 dated 22nd July 2017 registered with the Dattawadi Police Station, Pune City for offences punishable under section 384, 417, 494, 495, 504, 506 read with section 34 of the Indian Penal Code and the consequential chargesheet.

2) Heard Ms. Radhika Samant, learned Advocate for the Petitioners, Mr. Himanshu Nagarkar for Respondent No.2 and Ms. S.S. Kaushik, learned APP for the Respondent–State.

3) By Order dated 16th December 2024, the present criminal Writ Petition No. 2578 of 2018 along with Criminal Writ Petition No. 2063 of 2017 and Criminal Writ Petition No. 2064 of 2017, with the consent of the parties, were referred for mediation and the trial Court was directed not proceed against the Petitioners in Writ Petition No. 2578 of 2018. The mediation being unsuccessful, this Court, after hearing the parties, by its Order dated 3rd July 2025 admitted the present Criminal Writ Petition. Ad-interim relief granted vide Order dated 16th December 2024 was confirmed as interim relief. Rule being issued, the same has been served.

4) The prosecution story as alleged is as under:

4.1) The Respondent No.2/original complainant is the mother-in-law of Petitioner No.1. The Petitioner No.2 is the mother of Petitioner No.1 and Petitioner No.3 is the brother of Petitioner No.1. It is the case of the Respondent No.2 that, her son Sunny Dimber and Petitioner No.1 met each other through an online matrimony site by the name of bharatmatrimony.com. That, at the relevant time Petitioner No.1 was in India and Sunny Dimber was working in Australia.

4.2) That, Petitioner No.1 and Sunny Dimber started having conversations and communicated with each other. That, after Sunny Dimber came to India, the families met. That, Petitioner No.3 told, Respondent No.2 that Petitioner No.1 had completed her studies up to 12th standard and was pursuing her fashion designing course.

4.3) Pursuant to the formal meetings and discussions the marriage of Petitioner No.1 and Sunny Dimber was solemnized on 26th September 2015. That, after the marriage Sunny Dimber and Petitioner No.1 visited Mahabaleshwar and Ashtavinayak. Thereafter, on 12th October 2015, Sunny Dimber went back to Australia for work purposes. That, while leaving for Australia, Sunny Dimber shopped goods of Rs. 25,000/- for Petitioner No.1 and further gave her Rs.65,000/- in cash for her expenses. That, Sunny Dimber used to send money to the bank account of Petitioner No.1. That, after Sunny Dimber left for Australia, Petitioner No.1 never stayed at her

matrimonial house and would come to the matrimonial house for an hour in about 15 days. For remaining time of the month she would stay with her mother. That, Sunny Dimber started looking for the job for Petitioner No.1 in Australia. That, for the visa purposes Sunny Dimber asked Petitioner No.1 for the papers, passport and the other required educational documents. That, Petitioner No.1 informed Sunny Dimber that, her qualification documents were fake and asked him to give the papers which would not be scrutinized. That, Respondent No.2 and Sunny Dimber were in a state of shock when they got knowledge of the said fact.

4.4) That, in January 2016 on the festival of Sankrant, Respondent No.2 gifted the Petitioner a saree of Rs. 5000/-. That, on the same day while leaving, Petitioner No.1 asked for Rs. 10,000/- from Respondent No.2. That, Petitioner No.1 went to Dubai without informing Respondent No.2. On being questioned, Petitioner No.1 started quarreling with Respondent No.2 and created a scene outside the matrimonial house. That, the uncle of Petitioner No.1 i.e. Mr Sarjerao Mohite called Mr. Chirag Trivedi (friend of Sunny Dimber) near Balgandharv at Pune. At the said meeting, Mr Sarjerao Mohite threatened and intimidated Chirag by showing him pistol bullets and told him to call Sunny Dimber from Australia or else he would kill Sunny Dimber in Australia itself. That, Sunny Dimber should settle the matter with the Petitioner No.1 and pay her money. Mr. Sarjerao Mohite assured Chirag Trivedi that, he would get his share if he manages to get the settlement

money. That, Petitioner No.1 threatened Respondent No.2 with false cases. That, the Petitioners and the father of Petitioner No.1, came outside the house of Respondent No.2, and created a scene by banging the door, abusing and threatening to kill the Respondent No.2's family. That, on 26th August 2016 when Petitioner No.1 visited the office place of Sunny Dimber in Australia, she was in a drunk state and created a scene at the office. That, Petitioner No.1 demanded Rs. 25 lakhs from Sunny Dimber or else threatened that she would commit suicide and leave a suicide note in his name. In this factual background, the present FIR came to be filed.

5) Ms. Radhika Samant, learned Advocate for the Petitioners submitted that,

5.1) The present case is an offshoot of matrimonial dispute which the Petitioner No.1 has with Sunny Dimber. That, the present FIR is nothing but a counterblast to the FIR filed by Petitioner No.1 against the Respondent No.2 and her family under section 498-A, 504, 506 read with 34 of the Indian Penal Code. When both FIR's are read together it would be clear that, the allegations in present FIR are totally negated.

5.2) None of the ingredients as required to invoke the offences as alleged are available and/or made out. That, Petitioner Nos.2 and 3 herein being relatives are unnecessarily roped in. That, as against Petitioner Nos.2 and 3 there is no role/allegation or overt act which would indicate that, they have committed any offence.

5.3) Making a demand for alimony cannot be equated to an offence of extortion punishable under section 384 of the Indian Penal Code.

5.4) As regards the first marriage of the Petitioner No.1, it was submitted that, when the first marriage of Petitioner No.1 took place with Mr. Bhausahab Shinde, Petitioner No.1 was a minor. That, she separated from her said husband in the year 2007. That, Sunny Dimber was aware of the said facts.

5.5) The offence of extortion is not made out, as the husband and/or his family had not delivered any property or security neither have proved nor are in a position to prove any threat to life.

5.6) The allegation that, the documents of Petitioner No.1 were false or fake is in fact belied by the contention of Respondent No.2 that the Petitioner No.1 traveled to Australia on the very same documents. The documents of Petitioner No.1 are valid and subsisting documents. That, no case of cheating can be made out as against Petitioner No.1. The allegation of demand of Rs.25 lakhs, is vague and devoid of any particulars and merits.

5.7) The first husband Mr. Bhausahab Shinde has remarried with another lady in the year 2010 without taking divorce and is now having two children from the said marriage.

5.8) As regards the allegation that, in the marriage certificate the marital status of Petitioner No.1 was shown as "unmarried", it is submitted that, the Petitioner No.1 could have only selected the said option of unmarried

as she was neither a widow nor a divorcee and no decree of divorce was in existence or in her position at the said time. That, petitioner No.1 was under a bonafide belief that having been married and separated while she was a minor, no decree of divorce was required and therefore she had chosen the option as “unmarried”.

5.9) As regards, the maintenance proceedings filed under section 125 of the Cr.PC. bearing No.E 332 of 2007, it was submitted that, when the first marriage of Petitioner No.1 took place on 23rd June 2004, she was only 14 and half years old. That, as she was driven out of the matrimonial house in the year 2007, did not have any support, she had filed the maintenance proceedings. By Judgment and Order dated 16th February 2009 maintenance by consent of Rs.700/- per month was granted. That, Petitioner No.1 was advised that, she being a minor when she had first married and separated, there was no reason or requirement to seek a decree of divorce. That, Bhausahab Shinde had filed a Petition for divorce only in February 2017 i.e. nearly after 10 years of separation. That, the same was due to the instigation of Sunny Dimber.

5.10) The collusion between Mr. Bhausahab Shinde and Sunny Suresh Dimber is evident from the fact that, the ex-parte decree of divorce dated 25th September 2017 specifically records that on the very same date an other matter was listed before the family Court being the Petition filed by the Sunny Dimber seeking nullity of marriage. That, the said fact finds an express

mention in the family Court's Order dated 25th September 2017.

5.11) That, considering the guidelines laid down by the Hon'ble Supreme Court in the case of State of *Haryana and Ors. Vs. Bhajanlal and Ors.* reported in *AIR 1992 SC 604*, the present FIR along with the chargesheet be quashed and set aside.

6) Mr. Himanshu Nagarkar, learned Advocate for Respondent No. 2 submitted that:-

6.1) The allegations made in the FIR clearly make out the offences and that the same are, in fact, offences against society. There are contemporaneous documents, in the form of Court proceedings and Orders, which indicate that Petitioner No. 1 was already married and her first marriage was subsisting when she undertook and performed her second marriage with Sunny Dimber on 26th September 2015.

6.2) The marriage between Sunny Dimber and Swati Dimber has been declared null and void, as it was proved that Swati Dimber (present Petitioner No.1) had a living spouse at the time of her marriage with Sunny Dimber (son of Respondent No.2). In this regard, it is noted that Swati Dimber admitted in her cross-examination that, she had been previously married to Mr. Bhausahab Shinde, which marriage was subsisting when she married Mr. Sunny Dimber.

6.3) Regarding the Petitioners' defence, that under the Prohibition of Child Marriage Act, 2006, the first marriage is legally irrelevant and therefore voidable, the learned Advocate submitted that, considering the fact she never

sought annulment of the said marriage, the same was legally subsisting. Consequently, her marriage with Sunny Dimber is void ab initio under Section 11 of the Hindu Marriage Act.

6.4) Performing a second marriage while a first marriage is still subsisting is an offence. That, the Petitioner's representation on the Bharat Matrimony site that, she was unmarried, as well as on the Application for the registration of marriage, clearly proves and attracts Section 420 of the Indian Penal Code.

6.5) The Petitioner has used fake 10th and 12th standard marksheets and has procured documents on the basis of the said marksheets.

6.6) On 22nd September 2016, Petitioner No.1 filed an FIR against the Respondent No.2 and her family under section 498-A, 504, 506 read with 34 of the Indian Penal Code. That, Petitioner No.1, time and again, would demand the amount of Rs. 25 lakhs. That, in or around December 2016, Respondent No.2 became aware of the fact that Petitioner No.1 was, in fact, married to one Bhausahab Shinde in the year 2004 and that, she had filed a complaint under section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code against the said Bhausahab Shinde and his family.

6.7) The demand of Rs. 25 lakhs made at the workplace of the son of Respondent No. 2 in Australia, accompanied by threats of ruining his life or getting his visa cancelled, clearly constitute an offence under Section 383 and 384 of the Indian Penal Code. Under these circumstances, he submits that the

case against the Petitioners is clearly made out.

7) The Hon'ble Supreme Court in the case of *A Subash Babu Vs. State of Andhra Pradesh And Anr. reported in (2011) 7 SCC 616* has observed that :-

“28. The offence mentioned in Section 495 IPC is an aggravated form of bigamy provided in Section 494 IPC. The circumstance of aggravation is the concealment of the fact of the former marriage to the person with whom the second marriage is contracted. Since the offence under Section 495 IPC is in essence bigamy, it follows that all the elements necessary to constitute that offence must be present here also. A married man who by passing himself off as unmarried induces an innocent woman to become, as she thinks his wife, but in reality his mistress, commits one of the grossest forms of frauds known to law and therefore severe punishment is provided in Section 495 IPC.

29. Section 495 begins with the words “whoever commits the offence defined in the last preceding section...” The reference to Section 494 IPC in Section 495 makes it clear that Section 495 is an extension of Section 494 and part and parcel of it. The concealment spoken of in Section 495 would be from the woman with whom the subsequent marriage is performed. Therefore, the wife with whom the subsequent marriage is contracted after concealment of the former marriage, would also be entitled to lodge a complaint for commission of offence punishable under Section 495 IPC. Where the second wife alleges that the accused husband had married her according to Hindu rites despite the fact that he was already married to another lady and the factum of the first marriage was concealed from her, the second wife would be an aggrieved person within the meaning of Section 198 CrPC.”

8) The Hon'ble Supreme Court in the case of *P. Sivakumar & Ors. vs. State, reported in 2023 SCC OnLine SC 1737* has held that:-

“5. Mr. S. Nagamuthu, learned senior counsel for the appellants submits that the marriage between the parties has been held to be null and void by the judgment of the High Court of Madras,

Madurai Bench by order dated 25.02.2021. He therefore submits that in view of the judgment of this Court in the case of Shivcharan Lal Verma v. State of Madhya Pradesh, (2007) 15 SCC 369, the conviction under Section 498-A IPC would not be sustainable.

7. Undisputedly, the marriage between the appellant No. 1 and PW-1 has been found to be null and void. As such the conviction under Section 498-A IPC would not be sustainable in view of the judgment of this Court in the case Shivcharan Lal Verma's case supra. So far as the conviction under Sections 3 and 4 of the Dowry Prohibition Act is concerned, the learned trial Judge by an elaborate reasoning, arrived at after appreciation of evidence, has found that the prosecution has failed to prove the case beyond reasonable doubt. In an appeal/revision, the High court could have set aside the order of acquittal only if the findings as recorded by the trial Court were perverse or impossible.

9) On perusal of the record and after considering the arguments it would be necessary to list certain important dates and events in the matter.

The same are as under:

23 rd June 2004	First marriage of Swati More/Swati Dimber i.e. Petitioner No. 1 with Bhausahab Shinde
2007	Separation of Swati More (Petitioner No. 1) and Bhausahab Shinde. 498-A complaint filed by Petitioner No. 1 against Bhausahab Shinde and family. Application for maintenance filed by Petitioner No. 1 under section 125 Cr.P.C. against Bhausahab Shinde
16 th February 2009	Judgment and Order passed granting maintenance of Rs.700/- per month to Petitioner No. 1 (for first marriage).
January 2015	Petitioner No.1 declares herself as a spinster on the matrimonial sight of Bharat Matrimony.
September 2015	The first meeting when Sunny Dimber (son of Respondent No.2 herein) and Petitioner No. 1 at Pune.

26 th September 2015	Marriage performed between Sunny Dimber and Swati More at Pune. (On this date, Petitioner No. 1's first marriage was subsisting)
30 th September 2015	Application for marriage registration filed by Swati Dimber and Sunny Dimber where Swati Dimber declares her marital status as 'unmarried'. This is done on oath before the Marriage Registrar.
12 th October 2015	Sunny Dimber departs for Australia and Swati Dimber remains in India with her parents. There is no cohabitation with the family of Sunny Dimber.
January 2016	At the Makarsankranti Pooja, the mother of Sunny Dimber i.e. Shailaja (Respondent No.2) invites Swati Dimber to stay at the matrimonial home, Swati refuses on the excuses of studies.
2 nd week of January 2016	Swati Dimber goes to Dubai without informing Sunny Dimber or his family.
25 th August 2016	Swati Dimber meets Sunny Dimber at his office in Australia and demands Rs.25 lakhs.
22 nd September 2016	Swati Dimber files FIR bearing No. 350 of 2016 under Sections 498-A, 504, 506 read with 34 of the Indian Penal Code against Sunny Dimber, Shailaja Dimber, Somesh Dimber, Chirag Trivedi and others (against second husband and family).
14 th October 2016	First complaint filed under Section 498-A of IPC by Petitioner No. 1 against her first husband Bhausahab Shinde results in an acquittal.
20 th February 2017	Bhausahab Shinde filed a petition under Section 13(1) (ia)(ib) of the Hindu Marriage Act for dissolution of marriage by decree of divorce.
22 nd July 2017	Respondent No. 2 i.e. Shailaja Dimber files a complaint under sections 384, 417, 494, 495, 504, 506 read with 34 against Swati Dimber, her mother and her brother. (Present FIR)
20 th September 2017	Sunny Dimber filed PA No. 1103 of 2017 before the

	learned Family Court, Pune for declaration of the marriage as null and void under section 11 read with section 5(i) of the Hindu Marriage Act, 1955. The said Petition is allowed and the marriage between Sunny Dimber and Swati Dimber is declared null and void due to Swati's previous living spouse i.e. Bhausahab Shinde.
9 th November 2017	Shailaja filed a complaint before the Judicial Magistrate First Class, Pune under section 420, 467, 471 of the Indian Penal Code against Swati.
16 th January 2018	Swati Dimber filed Criminal M.A. 362 of 2018 under the Protection of Women from Domestic Violence Act against Sunny Dimber, Somesh Dimber, Shailaja Dimber and the married sisters of Sunny Dimber.
20 th March 2018	Swati Dimber filed another case against Sunny Dimber and Chirag Trivedi under section 376, 328, 363, 384, 506 of the Indian Penal Code and under the SC/ST Act (Prevention of Atrocities Act).
7 th April 2018	Swati Dimber filed another FIR under section 509, 506(1), 504 against Chirag Trivedi.
9 th March 2022	Criminal M.A. No. 362 of 2018 filed under the Protection of Women from Domestic Violence Act by Swati Dimber is dismissed.
9 th December 2022	The Family Court at Pune in PA No. 1103 of 2017 declares the marriage between Sunny Dimber and Swati Dimber as null and void ab initio.

10) From the record and the aforementioned dates, it can safely be concluded that, the acts and conduct of Petitioner No.1 and other co-accused are intentional with knowledge and with mala fide intentions. The Petitioner No.1 has in fact in her deposition admitted that, she was married to Bhausahab Shinde and that she has contracted a second marriage with Sunny

Dimber, when her first marriage was valid and subsisting. It is clear that, the Petitioner No. 1 had knowledge and was aware of the consequences of her act in contracting the second marriage. This being the admitted facts, the Petitioner now cannot term her conduct of demanding Rs. 25 lacs as a demand of alimony. In my opinion, the argument is preposterous, totally untenable and surprising.

11) As far as the allegations against Petitioner No.1 are concerned, they appear to have been prima facie made out. The record indicates that the Petitioner No.1 has entered into a second marriage with Sunny Dimber, when her first marriage with Bhausahab Shinde was in existence and subsisting. The Petitioner No.1 has claimed maintenance from the said Bhausahab Shinde and also filed proceedings under Section 498A of I.P.C. against the said Mr. Bhausahab Shinde. Prima facie the offences are made out against the Petitioner No.1 in as much as she entered into a second marriage, with knowledge of the first marriage being subsisting and then conveniently claiming or taking a defence that, a demand of alimony from the second husband is permissible and does not amount to a offence of extortion is unacceptable. This kind of conduct is required to be dealt with strictly and with a iron hand. The conduct of the Petitioner No. 1 and other co-accused prima facie appear to be nothing short of blackmail and extortion. These are clear act of arm twisting and pressure tactics.

12) Perusal of the dates and events, as tabulated hereinabove clearly

bring out the mala fides and malicious intention of the Petitioner No. 1. The Petitioner No. 1's dishonest intentions are writ large on the record. The Petitioner No. 1 has after being aware of the illegal acts and offences committed by her, has gone ahead and misused and abused the provisions of law. The Petitioner No. 1 has misused and abused a welfare legislation and used the same as a weapon and means to extract monies. The Petitioner No. 1 has invoked all available avenues and filed proceedings under Section 498-A, 504, 506 and 34 of the IPC. The Petitioner has also filed proceedings under the Domestic Violence Act against the Respondent No. 2 and her family. The Petitioner No. 1 has filed a proceeding under Section 376, 328, 363, 384, 506 of the IPC and under the SC/ST Act against her second husband Sunny Dimber and his friend Chirag Trivedi. The Petitioner No. 1 has filed proceedings against Chirag Trivedi under Section 509, 506(1) and 504. Mr. Chirag Trivedi a friend of the second husband of Petitioner No. 1. Considering the aforesaid facts it is clear that, the prosecutions initiated by the Petitioner No. 1 are motivated, malafide and a belated attempt to create a defence. The conduct of the Petitioner No. 1 smacks of malafides, personal vendetta and is driven by the motive of wrongful gains.

13) Perusal of the F.I.R. indicates that the allegations made against the Petitioner Nos.2 and 3 are general in nature and vague. It is only alleged that the Petitioner Nos.2 and 3 along with the Petitioner No.1 and other co-accused created ruckus and scene outside the house of the Respondent No.2.

There is no allegation against the Petitioner Nos.2 and 3 in respect of the offence of extortion under Section 384 or cheating under Section 417 of I.P.C.. The allegation under Section 384 of I.P.C. are only against the Petitioner No.1 and other co-accused. The allegations under Section 417, 494, 495 are also against the Petitioner No.1 and the co-accused. The Petitioner Nos.2 and 3 being the mother and brother of the Petitioner No.1 have been roped into the criminal proceedings. It is not uncommon, for the relatives and dear ones to be roped into and accused of criminal offences on the basis of generalized and vague allegations. This tendency of the complainants to rope in all or most of the family members is required to be dealt with sternly.

14) The inherent powers under Section 482 of Cr.P.C. have to be exercised sparingly, with due care and caution. The powers can be invoked to achieve the twin objectives i.e. to secure the ends of justice and to prevent the abuse of the process of law. It is well settled that the powers cannot and should not be invoked and exercised to stifle genuine prosecutions, but should be invoked when the criminal system and machinery is misused to rope in individuals on the basis of vague and general allegation.

15) Considering the facts of the present case and the law as enunciated by the Hon'ble Supreme Court, I am of the opinion that a prima facie case is made out for quashing the criminal proceedings as against the Petitioner Nos.2 and 3. The case of the Petitioner Nos. 2 and 3, squarely fits in Category - 1 and 3 of the Categories as enumerated by the Hon'ble

Supreme Court in paragraph No. 102 in the case of State of Haryana Vs. Bhajan Lal, reported in 1992 Supp (1) SCC 335. As against the Petitioner Nos.2 and 3, even if the allegations made in the F.I.R. are taken at face value and accepted in their entirety, do not prima facie constitute any offence or make out a case against them. The uncontroverted allegations and material collected do not disclose the commission of any offence against the Petitioner Nos.2 and 3.

16) As regards the Petitioner No.1, a prima facie case appears to have been made out. The allegations and facts as alleged against the Petitioner No.1 are such that, no case is made out for exercising the inherent powers of quashing under Section 482 of Cr.P.C in favour of Petitioner No. 1.

17) In the aforesaid circumstances, I am inclined to quash the criminal proceedings against Petitioner Nos.2 and 3 only. Hence, the following Order :

(i) The Petition is partly allowed.

(ii) The F.I.R. bearing No. 232 of 2017, dated 22nd July 2017, registered with the Dattawadi Police Station, Pune City and the consequent Chargesheet filed in respect thereof is quashed and set-aside qua the Petitioner Nos.2 and 3 only.

(iii) As against the Petitioner No.1, the present Petition is dismissed.

(iv) The criminal prosecution in respect of F.I.R. bearing No.

232 of 2017, dated 22nd July 2017, registered with the Dattawadi Police Station, Pune City, as against the Petitioner No.1 herein and other co-accused shall continue.

(v) Rule is discharged in the aforesaid terms.

(RANJITSINHA RAJA BHONSALE, J.)

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