



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPLICATION NO.1117 OF 2025**

**SHAMIM ARA ZAHIRAUDDIN KHATIB AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

**AND
CRIMINAL APPLICATION NO.804 OF 2025**

**ANIS FATEMA W/O. UBED KHAN AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Mr. Sudarshan J. Salunke, Advocate for Applicants.

Ms. R. R. Tandale, APP for Respondent-State.

Mrs. Rashmi S. Kulkarni, Advocate for Respondent No.2.

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : 18th JUNE, 2026.

PRONOUNCED ON : 17th JULY, 2026.

ORDER:-

1. The applicants seeks to quash FIR No.27/2025 dated 18.01.2025 registered with City Chowk Police Station, Dist. Chhatrapati Sambhajinagar for offence punishable under Sections 3(5), 85, 117(2), 318(4), 352, 351(2) of Bhartiya Nyaya Sanhita, 2023 and Sections 3(1)(r), 3(1)(s), 3(1)(u), 3(1)(w)(i), 3(1)(z), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. The investigation was set in motion on the basis of information given by respondent no.2 alleging that in year 2015 she had first marriage with one Mohammad Iftexhar Khan. She

has son out of said marriage. In year 2018, she divorced from her first husband. In year 2023, she married with accused no.1 Ameruddin Khatib Zahiruddin Khatib. Thereafter, she resided in Dubai with him. She came to know that her husband had lost job. Thereafter, in November 2023, they returned to India and resided at Bangalore. Thereafter, she resided with her sisters-in-law at CBD Belapur and Daryaganj, New Delhi.

Thereafter, in March 2024 her husband obtained loan from HDFC Bank in her name and got transferred Rs.2,50,000/- in his account and rest of amount was kept in Fixed Deposit. The bank passwords were kept with him. Thereafter, he used to withdraw Rs.10,000/- per month behind her back. Thereafter, her husband started residing at Chennai, where he ill-treated her. When she complained to her father and mother-in-law, they abused her on her caste. Thereafter, she resided with her parents at Aurangabad. When she contacted to her in-laws, they asked her to arrange for repayment of loan amount of Rs.20 to 25 lakhs which is in name of husband. Thereupon they insisted to bring amount, else continue to stay with her mother. She alleges that her in-laws had never given idea about loan dues of her husband. They used her savings for themselves. They extracted gold ornaments and cheated her.

It is further alleged that her husband had two marriages before marriage with her. However, she was given idea of only one marriage. She alleges that while she was residing at Dubai with her husband, he insisted for unnatural sex. When she refused to do so, her husband threatened her to kill.

She alleges that her husband and in-laws were proud of their Khatib Caste and they used to tease her, since originally she belongs to Tadvī Caste. On 14.09.2024 when conciliation attempt was made, her in-laws pressurized her parents to sell out house at Aurangabad and arrange money for repayment of loan dues in name of her husband. Lastly, they refused to take her to matrimonial home and declared that her husband would have fourth marriage.

The aforesaid information culminated into registration of FIR in Crime No.27/2025. The investigation progressed and finally charge-sheet came to be filed in Court of Special Judge, District and Sessions Court, Aurangabad against in all 8 accused persons including applicants.

3. Criminal Application No.804/2025 is filed on behalf of accused nos.6 and 7 i.e. sisters-in-law of informant and her husband, whereas Criminal Application No.1117/2025 is filed by

mother and father-in-law, brother-in-law, co-sisters and sisters-in-law. The husband is not before this Court.

4. After filing of charge-sheet, application is amended and prayer to quash charge-sheet and proceeding in Special Case No.308/2025 pending before Sessions Judge at Chhatrapati Sambhajanagar has been added.

5. Mr. Sudarshan Salunke, learned Advocate appearing for applicants submits that respondent no.2 has grievance against her husband. They are living separate from each other. The present FIR is filed making false and bald allegations against all family members and husband. However, from contents of FIR and material in charge-sheet, no offence can be made out against applicants. He would, therefore, urge to quash FIR and consequential proceeding as against applicants.

6. Per contra, Mrs. Kulkarni, learned Advocate appearing for respondent no.2 vehemently opposes application. She would endeavour to contend that husband of respondent no.2 in connivance with present applicants hatched conspiracy and cheated respondent no.2. Although accused no.1 had two marriages earlier, second marriage was suppressed from respondent no.2. Her savings were extracted. The marriage was designed with intention to extract money from respondent no.2,

who was self-earning lady. All applicants teased her on account of caste. She was ill-treated in pursuance to demand of money. Therefore, ingredients of charged offences can be made out from FIR as well as material collected during course of investigation. She would, therefore, urge to reject application.

7. Having considered submissions advanced by learned Advocates appearing for respective parties and on perusal of FIR and contents of charge-sheet, it can be observed that allegations in FIR are predominantly directed against conduct of husband. Initially, respondent no.2 resided with her husband at Dubai. After return from Dubai, she resided with him at Bangalore and Chennai. Apparently, she never resided together with applicants, except casual visits alongwith her husband to residence of applicants. So far as mother-in-law and father-in-law are concerned, allegations are made that they teased her on her caste, but particulars of such abuses and treatment are omnibus and unspecific. It is difficult to believe that once respondent no.2 had married and resided with her husband, in-laws would tease her on the basis of caste. So far as allegations of cheating and ill-treatment on account of dowry demand is concerned, it is difficult to make out any case as against applicants from contents of FIR or charge-sheet.

8. Although Mrs. Kulkarni, learned Advocate appearing for respondent no.2 endeavours to contend that father-in-law and mother-in-law were aware about second marriage of their son, but they suppressed same from respondent no.2, this Court finds that merely on the basis of such allegations, no case can be made out against father-in-law and mother-in-law, thereby attracting offence under Section 318 of BNS, 2023. Even to make out offence under Prevention of Atrocities Act, there must be specific allegations to show intentional act on part of accused persons. However, in present case, unspecific, general and omnibus allegations are made without necessary particulars as to whether such acts were done in public view or with requisite intention. Even date, place etc. of incidents constituting offence are not given.

9. In light of aforesaid factual backdrop, reference can be given to observations made by the Supreme Court in case of ***Preeti Gupta and Another Vs. State of Jharkhand and Another***¹, wherein Apex Court observed in paragraph nos.30, 32 and 34 as under :-

“30. It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the courts in our country including this court are flooded with matrimonial cases. This clearly demonstrates discontent and unrest in the family life of a large number of people of the society.

32. It is a matter of common experience that most of these complaints under section 498-A IPC are filed in the heat of

¹ (2010) 7 SCC 667.

the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.

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

10. In yet another judgment in case of **Arti Mehta and Others Vs. State of Madhya Pradesh and Another²**, which reads thus:

“43. However, while safeguarding the rights and dignity of victims of domestic violence remains of paramount importance, courts are simultaneously required to ensure that the rigours of criminal law are not indiscriminately extended to every member of the family without a clear factual foundation. In prosecutions arising out of matrimonial disputes, the allegations against each accused must be specific, distinct and supported by prima facie material indicating active involvement in the alleged acts of cruelty, harassment or unlawful demand of dowry. Mere allegations that family members “supported” the husband, failed to intervene, or advised the complainant to adjust in the matrimonial relationship, without anything further, would not ipso facto attract criminal liability. There may indeed be situations where certain relatives remain passive spectators or fail to come to the aid of the complainant; however, such conduct, though morally questionable, cannot automatically be elevated to the status of criminal culpability unless the surrounding circumstances clearly disclose their active complicity or participation in the alleged offences.”

11. Similarly, in case of **Dara Lakshi Narayana and others Vs. State of Telangana and another³**, the Supreme Court observed in paragraph no.19 as under :-

² 2026 SCC OnLine SC 933.

³ (2025) 3 SCC 735.

“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.”

12. In light of aforesaid factual scenario and legal exposition, this Court has no hesitation to hold that continuation of prosecution against applicants would be abuse of process of law. Hence, case is made out to exercise inherent powers under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023.

13. In result, Criminal Applications are allowed in terms of prayer Clauses (C), (C-1) and (C-2).

(S. G. CHAPALGAONKAR)
JUDGE