



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO.622 OF 2020

Vaishali Janbaji Gawande, Age 35 years,
occup. Service, R/o Ward No.1.Major
Gate, Urjanagar, Chandrapur.

Applicant

-Versus-

1. State of Maharashtra through PSO Ramanagar, Chandrapur. **non-applicants**
2. Bharati Nitesh Raipure, Age 33 years, Occup.Housewife, R/o. Sumitra Nagar, Chandrapur.

Mr.S.B.Raut, Advocate for the applicant.
Mr.M.K.Pathan, APP for non-applicant State

**CORAM : VIBHA KANKANWADI AND
MRS.VRUSHALI V. JOSHI, JJ.**

DATE : 11th July, 2024

ORAL JUDGMENT (Per : Vrushali V.Joshi, J.)

Heard.

2. **Admit.** The application is heard finally with the consent of the learned counsel for the parties.
3. The applicant has filed this application for quashing of the proceedings (Regular Criminal Case No.1181 of 2020) pending before the learned Judicial Magistrate First Class, Chandrapur,

arising out of Crime No.548 of 2020 for the offence punishable under Section 498-A of the Indian Penal Code. Non-applicant No.2 Bharti, has lodged the complaint against her husband Nitesh stating that because of the affair of her husband with the applicant he tortured her. The marriage of the non-applicant No.2 is performed with one Nilesh- accused No.1 in the year 2007. They are having one daughter out of said wed-lock. Initially, the First Information Report is registered against the husband. During the investigation, the statements are recorded. The cause of harassment by the husband was disclosed about the affair with the applicant and therefore, the name of the applicant is added and the charge-sheet is filed against the applicant.

4. The learned counsel for the applicant has stated that the applicant is not the relative of the husband of non-applicant No.2 therefore, 498-A will not be attracted against her. The applicant is a married woman, she has falsely implicated in this case. Hence, prayed to quash the charge-sheet against her.

5. Prima facie, it appears that though the applicant is not the relative of the husband of non-applicant No.2, the offence under Section 498-A is registered against her and charge-sheet is

filed against the applicant without verifying, whether the offence under Section 498-A will attracted against her. Section 498-A reads thus:-

“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”.

6. As the applicant is not the relative of husband of non-applicant No.2 498-A of the Indian Penal Code shall not be attracted. As the charge-sheet is filed against this applicant, who is not the relative and only because allegations are made that the husband of the non-applicant No.2 is having extra marital affair with this applicant, the charge-sheet filed against her which is illegal, according to law. Hence, the criminal application is allowed.

7. The charge-sheet (Regular Criminal Case No.1181 of 2020) pending before the learned Judicial Magistrate First Class, Chandrapur, arising out of Crime No.548 of 2020 for the offence punishable under Section 498-A of the Indian Penal Code is hereby quashed and set aside against the present applicant only.

(MRS.VRUSHALI V. JOSHI, J) (VIBHA KANKANWADI, J)