



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4289 OF 2023

1. Gajanan Dashrath Rathod
2. Dashrath Chaju Rathod
3. Shobha Dashrath Rathod
4. Rajesh Dashrath Rathod
5. Vinod Dashrath Rathod

...Applicants

VERSUS

1. The State of Maharashtra
2. XYZ

...Respondents

...

Mr. B. S. Chondhekar, Advocate for Applicants

Mr. N. R. Dayama, APP for Respondent – State

Mr. S. H. Jogdand h/f Mr. S. S. Gangakhedkar, Advocate for Respondent No. 2

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CORAM : R. M. JOSHI, J.

DATE : 10th SEPTEMBER, 2026

PER COURT :-

1. Application of Applicant No. 1 – husband is already withdrawn as recorded by order dated 05.12.2023.

2. This Application filed under Section 482 of the Code of Criminal Procedure, 1973 the present Applicants seek quashment of First Information Report in Crime No. 04 of 2023 dated 02.01.2023 registered with Aundha Nagnath Police Station, District Hingoli for offences punishable under Sections 323, 354, 498-A, 504, 506 read with 34 of the Indian Penal Code (for short “IPC”) as against the Applicants and set aside the order taking

cognizance dated 04.08.2023 passed by Learned Judicial Magistrate First Class, Aundha Nagnath in R. C. C. No. 139/2023.

3. The case of the prosecution is that the Informant married Gajanan Dashrath Rathod on 15.03.2011, according to religious rites and customs at Mohari, and they have two sons out of the wedlock. The Informant lives with her parents in Brahmanwada, earning a living through labor and household work. The Informant lived peacefully with her husband and in-laws for only about one year after the marriage. Despite multiple mediation attempts arranged by her parents through local community members, as well as formal conciliation proceedings at the Women's Vigilance Cell under the Office of the Superintendent of Police, Hingoli, no settlement could be reached, leading her to lodge this First Information Report. The Informant alleges that her husband and in-laws subjected her to ongoing physical and mental torture, verbal abuse, starvation, and unlawful expulsion from the matrimonial home due to unmet demands for Rs. 3,00,000/- to purchase a tractor, as well as made derogatory remarks regarding her appearance and domestic skills. She further alleges that her brother-in-law, Vinod Dashrath Rathod (Applicant No. 5 in the present Application), repeatedly molested her with bad intentions when she was left alone at home. When she reported this conduct to her husband and parents-in-law, they suppressed the matter to preserve family dignity and threatened her with death. Additionally, she

alleges a specific incident of physical assault by her husband while working at a sugarcane farm in Purna Shivar, which necessitated her father and another individual to intervene and rescue her.

4. Learned Counsel for the Applicants states that the entire family has been falsely implicated by the Respondent No.2/Informant in the present FIR, *prima-facie* no case is made out even to register the offence. There are no specific allegations attributable to the present Applicant Nos. 2 to 5 to constitute any offence, moreover, they are residing separately from the matrimonial home of the Informant. Applicant Nos. 2 and 3 resided with the Informant and Applicant No.1 only for two years in a joint family, thereafter they resided separately. As far as the Applicant Nos. 4 and 5 are concerned, they reside in different cities for the purpose of education away from the matrimonial home, and never resided with the Informant at any point in time. Apart from allegations being vague and absence of specific overt acts, there is unexplainable delay in lodging of FIR. Insofar as the allegations under Section 354 of IPC against the Applicant No. 5 are concerned, they are completely false, without any basis and are only made to harass the Applicants. He submits that the Chargesheet came to be filed without any material to implicate the Applicants. To support his contentions, he places reliance on Apex Court's ruling in the case of *State of Haryana Vs. Bhajan Lal, 1992 (supp) (1) SCC 335*.

5. Learned APP and Learned Counsel for Respondent No. 2 submit that the application for quashing deserves to be dismissed, as the FIR clearly shows *prima facie* case of cruelty and dowry demands under Section 498A of the IPC being made out. Moreover, the allegations of molestation made against the Applicant No. 5 are serious in nature, therefore Application needs to be dismissed. It is submitted that the Applicant Nos. 2 and 3 were residing in matrimonial home for two years causing cruelty to the Informant. It is further submitted that even if Applicant Nos. 4 and 5 were not residing in the same house, the said fact does not automatically absolve them from the offence committed.

6. It is pertinent to note that the allegations in the FIR is that after one year of marriage, demand of money started, however, there are no particulars, much less, any specific allegation against Applicant Nos. 2 to 5. Though there is allegation against Applicant No. 5 stating that he misbehaved with the Informant, the said allegation seems as vague as possible.

7. Moreover, bare perusal of the record shows that Applicant Nos. 2 to 6 are residing separately distant from the matrimonial home apart from absence of specific allegations attributable to the said Applicants. It is well-settled that a criminal prosecution under Section 498A of the IPC cannot be sustained against family members on the basis of general and uncorroborated

assertions without concrete details regarding time, place, and individual participation. In the absence of evidence demonstrating active involvement in day-to-day domestic affairs, implicating relatives who reside separately merely by virtue of their relationship constitutes an abuse of the process of law.

8. At this stage, it would be relevant to refer to the judgments of the Hon'ble Supreme Court in case of *Geeta Mehrotra v. State of U.P.*, (2012) 10 SCC 741, *Preeti Gupta & Anr. v. State of Jharkhand*, (2010) 7 SCC 667, which states that relatives which are residing separately cannot be forced to face trial under Section 498-A IPC based on vague and sweeping allegations.

9. Therefore, having considered the facts and material placed before the Court, this Court is of the view that the allegations made in the FIR against the present Applicant Nos. 2 to 5 are vague and lack specific overt acts and hence FIR liable to be quashed. On the basis of such allegations, if the Applicants are called upon to undergo rigors of trial, it would lead to miscarriage of Justice.

10. In view of above, application stands allowed *qua* Applicant Nos. 2 to 5, in terms of prayer clause **'B' and 'B1'**.

(R. M. JOSHI, J.)

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