

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.1867 OF 2021**

1. Narayan s/o Madhukar Garje  
Age: 41 years, Occu.: Service
2. Tulsabai w/o Madhukar Garje  
Age: 61 years, Occu.: Nil,
3. Madhukar s/o Krishnaji Garje  
Age: 66 years, Occu.: Nil,  
All R/o. Near Nagnath Mandir,  
Metal Nagar, Ambarnath  
West, Thane, Tq.Ambarnath,  
Dist.Thane.
4. Manisha w/o Paraji Palve  
Age: 38 years, Occu.: Household,
5. Paraji s/o Narayan Palve  
Age: 48 yrs., Occu.: Driver,  
Both R/o. LIG-2 A, Section No.1,  
Kalamboli, Navi Mumbai.
6. Jayshree w/o Ganesh Sanap  
Age: 34 yrs., Occu.: Service (Teacher),  
R/o. Omkar Complex Building No.1,  
V-Wing, Plot No.403, Murbad Road,  
In front of over bridge of Shahad,  
Kalyan, Dist.Thane.

..Applicants  
(Orig. Accused)

VERSUS

1. The State of Maharashtra  
Through Police Inspector,  
Beed Rural Police Station,  
Tq. and Dist.Beed.
  2. Sunanda w/o Narayan Garje  
Age: 31 years, Occu.: Household and Labour,  
R/o. : Charatha, Tq. and Dist.Beed.
- ..Respondents  
(Resp. No.2 Ori. Complainant)

Advocate for Applicants : Mr.R.G.Hange  
APP for Respondent No.1 : Mr.M.M.Nerlikar  
Advocate for Respondent No.2 : Mr.S.S.Bora

**CORAM : SMT. VIBHA KANKANWADI &  
ABHAY S. WAGHWASE, JJ.**

**DATE : 29<sup>th</sup> November, 2022**

**JUDGMENT :- ( PER ABHAY S. WAGHWASE, J.)**

1. Husband, parents-in-law, sister-in-law, her husband and sister-in-law of complainant - Sunanda Narayan Garje at whose instance Crime bearing no.0183 of 2021 has been registered at Beed Gramin Police Station, District Beed, for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, are seeking exercise of powers under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.') for relief of quashing FIR and consequential charge-sheet.

2. Respondent No.2 - Sunanda Narayan Garje approached Beed Gramin Police Station and informed that she was married to applicant No.1 on 04-05-2007. That, after marriage, she came to reside with her husband and in-laws. According to her, she was treated properly for two months but thereafter, husband raised demand of Rs.50,000/- for purchasing house and he started beating her on that count. She has further alleged that husband

and all other applicants jointly said that she is unable to cook, she does not work properly, she is a rustic villager and thereby subjected her to mental cruelty. According to her, husband continuously put up demand of money and on it's non-fulfillment beat her, whereas rest others abused her and threatened not to spare her alive. Even attempt of reconciliation and settlement failed. On 14-04-2009, husband beat and dropped her at Charata, warning her that if she did not bring money, he would not allow her to cohabit with him. On the strength of above allegations, aforesaid crime has been registered at Beed Gramin Police Station.

3. It is the above crime, which is now sought to be quashed by the applicants and in-laws on the ground that it is abuse of process of law. For quashing of FIR, applicants are seeking exercise of powers under Section 482 of Cr.P.C.

Before proceeding to test the allegations on merits, it would be desirable to give a brief account of the settled law on the scope and object of exercise of powers under Section 482 of Cr.P.C. Section 482 of Cr.P.C. empowers High Court to invoke said powers in exceptional circumstances. On this point, law is squarely established. It would be appropriate to give a brief account of the scope and object of Section 482 and as to when High Court should be obliged to exercise the said powers.

In the landmark case of ***Inder Mohan Goswami and Anr. Vs. State of Uttaranchal and Ors.***, reported in **(2007) 12 SCC 1**, it was observed as under:

*“23. This Court in a number of cases has laid down the scope and ambit of courts’ powers under section 482 of Cr.P.C. Every High Court has inherent powers to act ex debito justitiae to do real and substantial justice, for the administration of which alone it exists, or to prevent abuse of the process of the Court.”*

- (i) to give effect to an order under the Code;*
- (ii) to prevent abuse of the process of the court, and*
- (iii) to otherwise secure the ends of justice.*

*24. Inherent powers under section 482 of Cr.P.C. though wide have to be exercised sparingly, carefully and with great caution and only when such exercise is justified by the tests specifically laid down in this section itself. Authority of the Court exists for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the court, then the court would be justified in preventing injustice by invoking inherent powers in absence of specific provisions in the statute.”*

In the case of ***Mahendra K.C. Vs. State of Karnataka and Another***; (2022) 2 Supreme Court Cases 129, the Hon’ble Apex Court in para No.19 observed as under:

*“19. The High Court has the power under Section 482 to issue such orders as are necessary to prevent the abuse of legal process or otherwise, to secure the ends of justice. The law on the exercise of power under Section 482 to quash an FIR is well-settled. In **State of Orissa v. Saroj***

**Kumar Sahoo; (2005) 13 SCC 540**, a two-Judge Bench of this Court, observed that : (SCC pp. 547-48, para 8)

*“8. ... While exercising the powers under the section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised ex debito justitiae to do real and substantial justice for the administration of which alone the courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers the court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the report, the court may examine the question of fact. When a report is sought to be quashed, it is permissible to look into the materials to assess what the report has alleged and whether any offence is made out even if the allegations are accepted in toto.”*

4. Even the Hon'ble Apex Court in the very recent case of **Kahkashan Kausar alias Sonam and others v. State of Bihar and others ; (2022) 6 SCC 599**, after dealing with the

observations in the cases of **Geeta Mehrotra Vs. State of U.P.**; (2012) 10 SCC 741, **Preeti Gupta v. State of Jharkhand**; AIR 2010 SC 3362 and **K. Subba Rao v. The State of Telangana** ; (2018) 14 SCC 452, has succinctly culled out proposition and the same is appearing in para no. 18 which reads as under :

*“18. Coming to the facts of this case, upon a perusal of the contents of the FIR dated 1-4-2019, it is revealed that general allegations are levelled against the appellants. The complainant alleged that “all accused harassed her mentally and threatened her of terminating her pregnancy”. Furthermore, no specific and distinct allegations have been made against either of the appellants herein i.e. none of the appellants have been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are, therefore, general and omnibus and can at best be said to have been made out on account of small skirmishes. Insofar as husband is concerned, since he has not appealed against the order of the High Court, we have not examined the veracity of allegations made against him. However, as far as the appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution.”*

Similarly, in **Vineet Kumar v. State of U.P. ; (2017) 13 SCC 369**, after referring to several other cases, including **State of Haryana and others v. Ch. Bhajan Lal ; AIR 1992 SC 604**, the Hon'ble Apex Court concluded and made following observations in Paragraph No. 41 :

*"41. Inherent power given to the High Court under Section 482 Cr.P.C is with the purpose and object of advancement of justice. In case solemn process of court is sought to be abused by a person with some oblique motive, the court has to thwart the attempt at the very threshold. The court cannot permit a prosecution to go on if the case falls in one of the categories as illustratively enumerated by this Court in **State of Haryana v. Bhajan Lal** ; 1992 Supp (1) SCC 335. Judicial process is a solemn proceeding which cannot be allowed to be converted into an instrument of operation or harassment. When there are materials to indicate that a criminal proceeding is manifestly attended with mala fide and proceeding is maliciously instituted with an ulterior motive, the High Court will not hesitate in exercise of its jurisdiction under Section 482 Cr PC to quash the proceeding under Category (7) as enumerated in State of Haryana v. Bhajan Lal (supra), which is to the following effect:*

*"102. ... (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."*

*Above Category 7 is clearly attracted in the facts of the present case. Although, the High Court has noted the judgment of State of Haryana v. Bhajan Lal, but did not advert to the relevant facts of the present case, materials on which final report was submitted by the IO. We, thus, are fully satisfied that the present is a fit case where the High Court ought to have exercised its jurisdiction under Section 482 Cr PC and quashed the criminal proceedings."*

5. Bearing in mind above settled legal provision, while exercising powers under Section 482 of Cr.P.C., we proceed to examine the case to ascertain whether it is a fit case for exercising powers under Section 482 of Cr.P.C. or not.

6. We have heard respective sides. With their assistance, we have also gone through the FIR, which is now sought to be quashed. It seems that present applicant No.1 and respondent No.2 got married on 04-05-2007. One comes across allegations that after two months, there was demand at the instance of husband for purchasing house. There are allegations that husband as well as other in-laws named in the complaint taunted on account of her inability to cook properly and to do work properly. They addressed her as a rustic lady. She claims that because of it, she was subjected to mental cruelty. She has levelled allegation of demand of money to husband and abuse to in-laws. Again, there are allegation against husband of beating her on 14-04-2009.

7. On carefully examining the above allegations, it is seen that general allegations are levelled. Where husband intended to purchase house and when such demand was raised by him, is not getting clear. Second allegation against him is that on 14-04-2009 he beat her and dropped her at her parents' place

asking her not to return empty handed else she would not be allowed to stay and cohabit with him. Allegations against rest of the applicants are only regarding abuse and taunting. Sweeping allegations seem to be made against applicant Nos.2 to 9. There are no detail narrations in the complaint as to when the alleged instances took place.

8. It is pertinent to note that marriage is of 2007 and present complaint is lodged on 12-07-2021 i.e. almost after a period of 14 years. Therefore, with such general, bald, vague and omnibus allegations, question arises as to whether applicants should be made to face prosecution. The simple answer is in no. Because Hon'ble Apex Court in the landmark case of **Ch.Bhajan Lal** (supra) has clearly held that powers under Section 482 of Cr.P.C. must be exercised to prevent abuse of process of law and to meet ends of justice. Taking clue from the said principles and guidelines laid therein, in the light of the allegations raised in the FIR, in our opinion case in hand attracts clause 7 of the said principles laid down in the above referred case.

9. Thus, in our opinion, on critical analysis of material in the FIR, statements of witnesses recorded by investigation machinery, present criminal action at the instance of respondent No.2 is not only after inordinate delay but even the allegations

10. Therefore, on taking survey of the entire record and file, there is no hesitation to exercise powers under Section 482 of the Cr.P.C. for quashing the FIR and consequential criminal proceedings. Accordingly, we proceed to pass following order :

- i. The application is allowed.
- ii. Crime vide FIR No.0183 of 2021 registered at Beed Gramin Police Station, District Beed, for the offences punishable under sections 498-A, 323, 504, 506 read with Section 34 of the IPC and the consequential charge-sheet vide R.C.C. No.474 of 2021, pending on the file of Judicial Magistrate First Class at Beed, are quashed and set aside.

SPT