



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

**CRIMINAL APPLICATION NO. 1841 OF 2023**

1. Kunal S/o Premnath Kamble,  
Age : 37 Years, Occ. Service **Disposed as withdrawn**
2. Lilavathi Premnath Kamble,  
Age : 60 Years, Occ. Household
3. Premnath S/o Eknathrao Kamble,  
Age : 60 Years, Occ. Retired
4. Vishal Premnath Kamble,  
Age : 33 Years, Occ. Household
5. Pramilla Vishal Kamble,  
Age : 30 Years, Occ. Household
6. Madhuri Premnath Kamble,  
Age: 27 Years, Occ. Household,  
All Resident of Pushpanjali Colony,  
New Shantiniketan Colony,  
Behind Akaswani, Aurangabad
7. Shila Dhivar,  
Age : 65 Years, Occ. Household  
R/o. As above
8. Aruna Mohode,  
Age : 70 Years, Occ. Household,  
R/o. K.D.R. Camp, Maliwada Road.  
Near Maratha High School,  
Aurangabad.

..APPLICANTS  
( ACCUSED)

**VERSUS**

1. The State of Maharashtra,  
Through its Police Station,  
Taluka Jalna
2. Shila W/o Kunal Kamble,  
Age : 30 Years, Occ. Service,  
R/o. C/o Ranuji Dongare,  
Sahayog Nagar, Near Ambad

Choufuli, Jalna

..Respondents  
(R. No.2 is Orig. Complainant)

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Advocate for the Applicants : Mr. Rahul O. Awasarmol  
A.P.P for Respondent No.1/State : G.A. Kulkarni  
Advocate for Respondent No.2 : Mr. S. V. Nigam

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**CORAM : SMT. VIBHA KANKANWADI AND  
R. W. JOSHI, J.J.**

**DATED : NOVEMBER 22, 2024**

**ORDER ( PER SMT. VIBHA KANKANWADI, J ) :-**

1. Present application has been filed under Section 482 of the Code of Criminal Procedure for quashing the First Information Report vide Crime No. 115 of 2023 dated 26.02.2023 registered with Taluka Jalna Police Station, District Jalna for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code.

2. It will not be out of place to mention here that when the matter was heard on 26<sup>th</sup> July, 2023, the learned Advocate for the applicants had withdrawn the application as against applicant No.1, who is the husband of respondent No.2. Under the said circumstance, the application is proceeded in respect of relief claimed by applicant Nos. 2 to 8, who are the relatives of applicant No.1.

3. The fact which is not in dispute is that applicant No.1 got married to respondent No.2 on 03.11.2019. Applicant Nos. 2 and 3 are the parents-in-law, applicant No.4 is brother-in-law, applicant No.5 is the wife of applicant No.4, applicant No.6 is the married sister-in-law, and applicant Nos. 7 and 8 are the sisters of mother-in-law of respondent No.2. It is also not in dispute that respondent No.2 was in service with Industrial Development Bank of India .

4. Heard learned Advocate for the applicants, learned A.P.P. and learned Advocate for respondent No.2. In order to cut shot, it may be stated that all of them have made submissions in support of their respective contentions.

5. Perusal of the First Information Report would show that after the marriage, after some time respondent No.2 had resumed her duty at Ambad which she says that she was going up and down from Aurangabad which is matrimonial home till 30.04.2020. According to her, during the said period all the accused persons were harassing her on the ground that they were not honoured properly at the time of marriage and gold ring and locket were not given to applicant No.1 and she is

unable to do household work. According to her, the said cruelty was in the nature of abuses resulting in mental harassment to her. According to her, she resided with the accused persons even after 07.09.2020, whereby she was transferred to Aurangabad. She has not given date on which she was allegedly driven out of the house. Therefore, if she was residing with the accused even after 30.04.2020 then we can definitely say that the alleged cruelty was not to the extent which will prompt her either to commit suicide or she would get apprehension about danger to her life.

6. The informant has further stated that thereafter the accused persons had started demanding amount of Rs. 5,00,000/- for purchasing four wheeler. In order to press that demand it is stated that she was abused and mental harassment was given to her and also the husband had assaulted her. As aforesaid, the application stood withdrawn as against the husband. She then state that as it was Covid-19 Pandemic situation, it was not feasible for her to go up and down from Aurangabad to the place of her service. According to her, her mother-in-law asked her to give the golden ornaments in her possession and accordingly she had parted with the same. She then states that thereafter she

herself along with her husband were staying in the rented room at Ambad from 01.05.2020 till September 2020. During that period, the allegations about harassment are against the husband. Then she further states that she was transferred to Aurangabad on 05.09.2020. No doubt we are at the preliminary stage, but then if she was being so harassed then whether she would have thought of joining at Aurangabad i.e. place where she was harassed or she could predict that she would not be harassed, is a question. She says that she joined the duty at Aurangabad on 07.09.2020 and thereafter when she asked the mother-in-law about her gold ornaments, the mother-in-law told that she has sold the same and if she demands the ornaments, she would be killed. Important point to be noted is that if this story would have occurred somewhere around 07.09.2020 when her all ornaments of which even the list has been given by her approximately 12 Tolas of gold then till 26.02.2023 i.e. date of the FIR, she would not have kept quiet. It is then surprising that she would not have taken search in respect of the ornaments i.e. to whom those ornaments were sold etc. Therefore, story appears to be concocted and then she says that she was driven out of the matrimonial home.

7. The applicants have produced on record the photocopy of the judgment passed by 9<sup>th</sup> Joint Civil Judge, Senior Division, Aurangabad in Hindu Marriage Petition No. 359 of 2021 dated 16.07.2022 which was under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. Respondent No.2 had appeared in the matter, however, failed to file written statement. It has been held by the competent Court that respondent No.2 failed to resume cohabitation and has willfully deserted the husband. The competent Court had directed her to resume the cohabitation within a period of 30 days from the decree i.e. from 16<sup>th</sup> July 2022. It is hard to believe that the informant would not have aware about the said decision, since she had a knowledge of institution of such proceeding. However, her FIR is totally silent in respect of this proceeding. Further it appears that the husband has filed further Hindu Marriage Petition No. 520 of 2022 with Civil Judge, Senior Division, Aurangabad for divorce which appears to be still pending, wherein the husband has stated that since she has not resumed the cohabitation in view of the decree he should be granted divorce. The said petition has been filed on 29.09.2022. The applicants have not given as to whether notice in respect of the said petition has been served on respondent No.2 or not.

8. As regards applicant Nos. 3 to 8 are concerned, there are absolutely no overt act mentioned in the FIR. Everything could not have been done in chorus. Further, the married sister-in-law though residing in Aurangabad itself and the matrimonial aunts residing in Aurangabad but separately residing have also been roped in. Therefore, taking into consideration all these things certainly case is made out for exercise of our power under Section 482 of the Code of Criminal Procedure in favour of applicant Nos. 2 to 8. It would be unjust to ask these applicants to face the trial. Hence, the following order

**ORDER**

- (i) The application stands partly allowed.
- (ii) The First Information Report i.e. C.R. No. 0115 of 2023 dated 26.02.2023 registered with Taluka Jalna Police Station, District Jalna for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Police Station stands quashed and set aside as against applicant Nos. 2 Lilavathi Premnath Kamble, applicant No.3 Premnath S/o Eknathrao Kamble, applicant No.4, Vishal Premnath Kamble, applicant No.5 Pramilla Vishal Kamble, applicant No.6 Madhuri Premnath Kamble, applicant No.7 Shila Dhivar, and applicant No.8. Aruna Mohode.

**(R.W. JOSHI)**  
**JUDGE**

**(SMT. VIBHA KANKANWADI )**  
**JUDGE**

*Y.S. Kulkarni*