



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

CRIMINAL APPLICATION NO. 143 OF 2024

- 1] Gautam s/o Sukhdeo Chakre
Age: 38 years, Occu. Labour,
- 2] Bhimabai w/o. Sukhdeo Chakre
Age: 80 years, Occu. Nil
Applicant no.1 & 2 are
R/o. Satdives Beed.
- 3] Narhari s/o Sukhdeo Chakre
Age: 59 years, Occu. Retired
R/o. Swarajnagar Barshi Road
Beed, Tq. & Dist. Beed.
- 4] Pushpa w/o. Jayprakash Sonawane
Age: 50 years, Occu. Service
R/o. I.T.I. Colony Nagar Road Beed,
Tq. & Dist. Beed.

... Applicants

Versus

- 1] The State of Maharashtra
Through: Mondha Police Station
Parbhani, Tq. & Dist. Parbhani.
- 2] Arati w/o Gautam Chakre,
Age: 28 years, Occu. Household,
R/o. Mahatma Puhle Nagar
Karegaon Road, Parbhani,
Tq. & Dist. Parbhani.

... Respondents

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Ms. Sanghmitra Wadmare, Advocate for Applicants.

Mr. S. A. Gaikwad, APP for Respondent / State.

Ms. Naseembanu Iliyas Deshmukh, Advocate for Respondent No.2.

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CORAM : **SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

DATE : 09th June, 2025.

ORDER: (Per Sanjay A. Deshmukh, J.)

1 Heard the learned advocates for the respective parties.

2 This application is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short “the Cr.P.C.”) for quashing of the proceedings in R.C.C. No.658 of 2023, pending in the Court of learned Chief Judicial Magistrate, Parbhani, arising out of the FIR bearing Crime No.0229 of 2023, dated 1st July, 2023, registered with Mondha Police Station, District Parbhani, for the offences punishable under Sections 498-A, 323 and 504 read with 34 of the Indian Penal Code as well as Charge Sheet No.221 of 2023.

3 Applicant No.1 is the husband of the informant / respondent No.2. Applicant No.2 is the mother-in-law, applicant No.3 is the brother-in-law and applicant No.4 is the sister-in-law of the informant.

4 The respondent No.2 / informant averred in the report that she married with applicant No.1 as per religious rites and customs on

19th August, 2009. After marriage, the informant went to reside at her matrimonial home. Out of the wedlock, she begotten one daughter named Anjali, aged 12 years. For the initial two years of marriage, the informant was treated well by the applicants. However, subsequently, she was treated with cruelty on petty issues. Applicant No.1 was jobless. He used to demand Rs.1,00,000/- for purchasing a motorcycle. Applicant Nos.1, 2 and 4 used to abuse her. They used to say that if the informant's mother failed to pay Rs.1,00,000/- for purchasing a motorcycle, the informant should be driven out of the house. Applicant No.3 whenever visited to the matrimonial house of the informant at Beed, he also used to abuse her. When the informant was telling that fact to her mother and brother, they were convincing her.

5 The informant further averred that on 29th May, 2015 at around 02:00 pm, when she was at home, applicant No.1 again asked her why she had not brought Rs.1,00,000/- from her maternal home for purchasing a motorcycle. Upon her inability to meet the demand, he abused and assaulted her with slaps and fist blows. At that time, applicant Nos.2, 3 and 4 also abused the informant. She immediately informed that fact to her mother, who came to the matrimonial house of the informant at Beed and tried to convince the applicants, but none of them paid heed to her. Subsequently, applicant No.1 drove the

informant out of the matrimonial home. Thereafter, she returned to Parbhani alongwith her mother and her daughter Anjali. The informant did not lodge any complaint earlier, as she was hopeful that applicant No.1 would take her back for cohabitation. Thereafter, she submitted a written complaint on 10th May, 2023 to the *Bharosa Cell*, Parbhani. However, as there was no response from the applicants, the informant lodged the report against the applicants.

6 The learned counsel for the applicants submits that the applicants are falsely implicated in the crime. There is inordinate delay caused in lodging the report. False allegation of demand of money for purchasing a motorcycle is made against the applicants. There is no cogent and acceptable evidence against the applicants. Vague and general allegations are made against the applicants. He lastly prayed to allow the application.

7 The learned APP for the State strongly opposed the application and submitted that the applicants are involved in the serious crime. Their names are mentioned in the report. They treated informant with cruelty. He lastly prayed to reject the application.

8 The learned counsel for the informant / respondent No.2 also strongly opposed the application. She submitted that the names of the applicants are mentioned in the report. They are involved in

serious crime. They have committed anti-social crime. She lastly prayed to reject the application.

9 Here, it is relevant to refer to the decision of the Honourable Supreme Court in ***Mohammad Wajid and Another Vs. State of U.P. and Another***, reported in, ***2023 SCC Online SC 951; 2023 INSC 683***, whereunder the Honourable Supreme Court held thus:-

“34. it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation....”

10 A reference also can be made to the judgment in the case of ***CBI Vs. Aryan Singh***, reported in, ***2023 SCC Online SC 379***, in which the Honourable Supreme Court held as under:-

“Para 10... As per the cardinal principle of law, at the stage of discharge and/or quashing of the criminal proceedings, while exercising the powers under Section 482 Cr. P.C., the Court is not required to conduct the mini trial.”

11 We have perused the charge-sheet, particularly, the report and the statements of witnesses. It is an admitted fact that the informant is residing with her mother at Parbhani since 2015. The report is lodged after the notice dated 15th March, 2023 was sent to the informant by her husband. As per Section 468 of the Code of Criminal Procedure, report for the offence punishable under Section 498-A of the IPC must be lodged within three years from the date of commission of the offence. The Honourable Supreme Court in the case of **XYZ Vs. State (Govt. of NCT of Delhi) and another**, by judgment dated 4th June, 2025 delivered in Criminal Appeal No.2894 of 2025, reiterated position of law on the point of limitation. The Honourable Supreme Court in the said case in paragraph No.15 observed as under:-

“15. It is a settled position of law that for the computation of the limitation period under Section 468 CrPC the relevant date is the date of filing of the complaint or the date of institution of prosecution and not the date on which the Magistrate takes cognizance (**Sarah Mathew Vs. Institute Cardio Vascular Diseases by Its Director DR K. M. Cherian & Ors. [2014] 2 SCC 62**). The dicta laid

down in the case of **Bharat Damodar Kale & Anr. v. State of Andhra Pradesh, [2003] 8 SCC 559**, makes it unequivocally clear that the Magistrate is well within his powers to take cognizance of a complaint filed within a period of three years from the date of the commission of offence as mandated under section 468 CrPC. The relevant portion is reproduced as under:

“50. The Code imposes an obligation on the aggrieved party to take recourse to appropriate forum within the period provided by law and once he takes such action, it would be wholly unreasonable and inequitable if he is told that his grievance would not be ventilated as the court had not taken an action within the period of limitation. Such interpretation of law, instead of promoting justice would lead to perpetuate injustice and defeat the primary object of procedural law.

51. The matter can be looked at from different angle also. Once it is accepted (and there is no dispute about it) that it is not within the domain of the complainant or prosecuting agency to take cognizance of an offence or to issue process and the only thing the former can do is to file a complaint or initiate proceedings in accordance with law, if that action of initiation of proceedings has been taken within the period of limitation, the complainant is not responsible for any delay on the part of the court or Magistrate in issuing process or taking cognizance of an offence. Now, if he is sought to be penalized because of the omission, default or inaction on the part of the court or Magistrate, the provision of law may have to be tested on the touchstone of Article 14 of the Constitution. It can possibly be urged that such a provision is totally arbitrary, irrational and unreasonable. It is settled law that a court of law

would interpret a provision which would help sustaining the validity of law by applying the doctrine of reasonable construction rather than making it vulnerable and unconstitutional by adopting rule of litera legis. Connecting the provision of limitation in Section 468 of the Code with issuing of process or taking of cognizance by the court may make it unsustainable and ultra vires Article 14 of the Constitution.

52. *In view of the above, we hold that for the purpose of computing the period of limitation, the relevant date must be considered as the date of filing of complaint or initiating criminal proceedings and not the date of taking cognizance by a Magistrate or issuance of process by a court. We, therefore, overrule all decisions in which it has been held that the crucial date for computing the period of limitation is taking of cognizance by the Magistrate/court and not of filing of complaint or initiation of criminal proceedings.*

53. *In the instant case, the complaint was filed within a period of three days from the date of alleged offence. The complaint, therefore, must be held to be filed within the period of limitation even though cognizance was taken by the learned Magistrate after a period of one year. Since the criminal proceedings have been quashed by the High Court, the order deserves to be set aside and is accordingly set aside by directing the Magistrate to proceed with the case and pass an appropriate order in accordance with law, as expeditiously as possible.”*

12 In the present case, the report is lodged on 1st July, 2023. The punishment provided for the offence punishable under Section 498-A of IPC is three years. The last incident narrated by the informant

is of 29th May, 2015. Thus, the report is not filed within three years from the date of commission of the offence. Thus, the case is barred by limitation as per law laid down in the case of ***XYZ Vs. State (Govt. of NCT of Delhi) and another*** (cited supra) under Section 468(1)(c) of the Cr.P.C. Considering the legal reason above, if the applicants are compelled to face the trial, it would certainly be an abuse of the process of the Court. We are therefore, inclined to allow the application by exercising our inherent powers under Section 482 of the Cr.P.C. in the interest of justice to prevent the abuse of the process of Court. The application, therefore, deserves to be allowed. Hence, the following order:-

ORDER

- I. The application is allowed.
- II. The proceedings in R.C.C. No.658 of 2023, pending in the Court of learned Chief Judicial Magistrate, Parbhani, arising out of the FIR bearing Crime No.0229 of 2023, dated 1st July, 2023, registered with Mondha Police Station, District Parbhani, for the offences punishable under Sections 498-A, 323 and 504 read with 34 of the Indian Penal Code as well as Charge Sheet No.221 of 2023, stand quashed as against all these applicants.

[SANJAY A. DESHMUKH, J.] [SMT. VIBHA KANKANWADI, J.]