



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 149 OF 2024

1. Ratan Shantilal Kothari
Age 43 years, Occu: Business
R/o. Naharo Ka Dhada,
Merta City, Nagaur,
Nagaur Rajasthan
 2. Basantidevi Shantilal Kothari
Age 70 years, Occu: Household
R/o. Naharo Ka Dhada,
Merta City, Nagaur,
Nagaur Rajasthan
 3. Kishan Shantilal Kothari
Age 48 years, Occu: Business
R/o. Savo Ka Mohalla, Merta City,
Merta, Nagaur Rajasthan 341510
 4. Kamod Kishan Kothari
Age 45 years, Occu: Household
R/o. Savo Ka Mohalla, Merta City,
Merta, Nagaur Rajasthan 341510
 5. Shripal Shantilalji Kothari
Age 46 years, Occu: Business
R/o. Naharo Ka Dhada, Merta City,
Nagaur, Nagaur Rajasthan
 6. Rekha Shripal Kothari
Age 38 years, Occu: Household
R/o. Naharo Ka Dhada, Merta City,
Nagaur, Nagaur Rajasthan
 7. Meena Deepak Gandhi
Age 41 years, Occu: Household
R/o. Vijaydeep, 12-Shanti Priya Nagar,
Jodhpur, Nandanwan
Jodhpur Rajasthan 342008
- ...Applicants

Versus

1. The State of Maharashtra,

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through the Officer In-charge,
City Police Station, Nandurbar.
Tq. & District Nandurbar.

2. Gauri w/o Ratan Kothari,
Age 33 years, Occu: Household,
R/o Plot No.35, Gopal Nagar,
Nandurbar. Tq. & Dist. Nandurbar. ...Respondents

.....
Mr. Pranit P. Patni h/f Ms. Renu R. Wani, advocate for the applicants
Mr. A.D. Wange, A.P.P. for respondent No.1
Mr. S.S. Panale, advocate for respondent No.2
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**CORAM : SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.
DATE OF RESERVING THE : 20.03.2025
ORDER
DATE OF PRONOUNCING : 09.04.2025
ORDER**

O R D E R (PER SANJAY A. DESHMUKH, J.) :-

1. Heard.
2. The applicants are seeking quashing of first information report (for short "F.I.R.") vide C.R. No.683 of 2022 dated 17.11.2022 registered with City police station, Nandurbar, District Nandurbar for the offences punishable under Sections 498-A, 323, 504, 506 r.w. 34 of Indian Penal Code (for short "I.P.C.") and the consequential criminal case bearing R.C.C. No. 369 of 2023 pending before Ld. Chief Judicial Magistrate, Nandurbar.
3. The informant averred in the report that her marriage was

performed with the applicant No.1 on 5.6.2010 in Rajasthan. It was an inter-caste marriage. After marriage, she started to reside with her husband and other applicants at Naharo ka Dhada, Merta City, Tq. Dist Nagaur, Rajasthan. It was a joint Hindu family. Her family was running a shop of shoes. The informant further averred in her report that on 1.7.2022 her husband came to house under the influence of liquor. She questioned him about it. At that time he demanded Rs.5,00,000/- from her. She told that she is not able to pay that much amount from her parents as they are very poor. Upon that the husband abused her and beaten her by fist and kick blows. He abused her and threatened her to kill her. When the informant told that fact to other applicants, they said that demand of Rs.5,00,000/- made by her husband is correct. They also said that if she is not bringing that amount of Rs.5,00,000/- he will take a divorce from her. The informant further averred that her husband was also doubting her character. Even she has begotten two sons i.e. Gunjan aged 12 years and Harsh aged 10 years. The informant resided there with a hope that change will take place in future and therefore, she bore that cruelty at the hands of the applicants. She told about that cruelty to her mother Jaya and brothers Rahul and Varun. They convinced and told her to wait and keep hope for good days. With such hope she lived there and bore the cruelty but no such change took place.

4. The informant further averred that in the month of April, 2018 her husband abused and demanded Rs.5,00,000/-. Even they beaten her by fist and kicks blows. She requested her husband to leave her at her parents' house. She was left at her parents' house. Thereafter, her husband contacted her on mobile phone and informed her that he is coming to fetch her but he did not come to fetch her. Thereafter on 31.07.2021, the informant alongwith her sister Nikita Hatiwala and her husband Hemant Hatiwala, her another sister Ketaki Choudhari and her husband Dinesh Choudhari went to the house of her husband. The applicants refused to take her back in the house for cohabitation. Therefore, they all came back to Nandurbar. She made complaint to Women Grievance Redressal Cell, Nandurbar but the applicants did not turn up there. Therefore, the informant lodged the report against the applicants and her husband that she was treated with cruelty from 1.7.2010 to 31.7.2021.

5. Learned advocate for the applicants submitted that applicants Nos. 3 and 4 are residing at Savo Ka Mohalla, Merta City, applicant No.7 is residing at Jodhpur as her husband's house is at Jodhpur, Rajasthan. The genera, vague and omnibus allegations are made against the applicants by the informant about cruelty. He

further submitted that no specific incident is stated by the informant as to when the applicants treated her with cruelty by demanding Rs.5,00,000/-. The role of each of the applicants with specific incident and over act is not stated to attract the offence of cruelty as contemplated under section 498-A of I.P.C. There is no injury certificate to show that the applicants treated the informant with cruelty by beating her. There are statements of witnesses, who are relatives of informant, however, those also show general allegations of treating the informant with cruelty. Learned advocate for the applicants further submitted that the application deserves to be allowed by quashing the report and the criminal case to prevent the abuse of process of the court as per the section 482 of the Cr.P.C.

6. Learned A.P.P. for respondent No.1 State strongly opposed the application by submitting that the applicants have treated the informant with cruelty, physically as well as mentally. The husband of the informant used to consume liquor. Under the influence of liquor he used to make demand of Rs.5,00,000/- from her. The informant could not fulfill the said demand, because of poor financial condition of her parents and on that count the applicants abused and beaten her by fist and kick blows. Even the applicants threatened to kill her. Once the applicant had told that if she is not bringing the amount of Rs.5,00,000/- he will take divorce from her. The informant further

averred that her husband was also doubting her character. They cannot be exonerated from the criminal liability under Sections 498-A, 354, 323, 504, 506 r.w. 34 of the I.P.C. It is lastly prayed to reject the application.

7. Learned advocate for respondent No.2-informant submitted that the names of the applicants are mentioned in the report with specific role attributed to them in respect of abuses and cruelty to the informant. The demand of Rs.5,00,000/- was continuously made and due to non fulfillment of said demand because of poor financial condition of her parents, the applicants used to abuse, beat and ill-treat her. Besides that, the applicants on trifling and simple reason used to abuse and beat the informant. On 31.7.2021, the informant alongwith her sister Nikita Hatiwala and her husband Hemant Hatiwala, her another sister Ketaki Choudhari and her husband Dinesh Choudhari went to the house of her husband. But the applicants refused to take her back in the house for cohabitation. Therefore, they all came back to Nandurbar. Therefore, the applicants have treated the informant with cruelty, which constitute the offences referred in the F.I.R. Learned advocate for respondent No.2 lastly prayed to reject the application.

8. It would be relevant to refer to the judgment of the Hon'ble

Supreme court in the case of **Kim Wansoo Vs. State of Uttar Pradesh & Ors.**, reported in **2025 SCC Online SC 17**, in which the Hon'ble Supreme Court, in paras 9 and 11 of the judgment, has held as under :

“9. In **State of A.P. v. Golconda Linga Swamy**, this Court again held that where an FIR did not disclose the commission of an offence without anything being added or subtracted from the recitals thereof, the said FIR could be quashed.

11. In the contextual situation, it is also relevant to refer to the decision of this Court in **Mohammad Wajid and Another v. State of U.P. and Anr.**, whereunder this Court, in so far as it is relevant, 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 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 materials collected in the course of investigation.....”

9. We have perused the report and the charge sheet. The

statements of witnesses who are relatives of the informant stated similar facts. They have stated that the informant told them about the alleged cruelty for the first time when the report is lodged on 17.11.2022. The marriage of the informant took place on 5.6.2010. Two sons are begotten to the informant. She has resided with her husband till April, 2018 and thereafter she left that house. It is alleged that her husband demanded Rs.5,00,000/- to her. As far as the allegations of demand of Rs.5,00,000/- on the part of applicant Nos. 2 to 7 are concerned, their role is not specifically stated as to when they demanded that amount and treated the informant with cruelty, except applicant No.1-husband. The alleged cruelty took place at Merta city, Nagaur, Rajasthan and the report is lodged at Nandurbar city police station. It is not clarified as to when applicant Nos. 2 to 7 resided at Nandurbar treated the informant with cruelty. Except the husband-applicant No.1, there are general, omnibus and vague allegations against the other applicants. The role of applicant Nos. 2 to 7 is not specified with their specific overt act and only mentioning their names in report and statements of the witnesses is not sufficient to proceed further with the trial.

10. For the aforesaid reasons and considering the role of applicant No.1 husband, his application cannot be allowed. The vague, general and omnibus allegations are made against the

applicant Nos. 2 to 7. If the applicants Nos. 2 to 7 are compelled to face the trial, it would certainly be an abuse of process of the court. It is necessary to invoke our inherent powers under section 482 of the Cr.P.C. for quashing of the report and the criminal case, in the interest of justice to prevent the abuse of process of Court. Therefore, we are inclined to allow the application to the extent of applicant Nos. 2 to 7. Hence, we pass the following order:-

O R D E R

- I. Criminal application is partly allowed.
- II. Application of applicant No.1 Ratan Shantilal Kothari stands rejected.
- III. The F.I.R. vide C.R. No. 683 of 2022 dated 17.11.2022 registered with Nandurbar City police station, Nandurbar, District Nandurbar for the offences punishable under Sections 498-A, 323, 504, 506 r.w. 34 of I.P.C. and the consequential criminal case bearing R.C.C. No. 369 of 2023 pending before learned Chief Judicial Magistrate, Nandurbar, are quashed as against applicants Nos. 2 to 7 herein.

(SANJAY A. DESHMUKH, J.) (SMT. VIBHA KANKANWADI, J.)

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