



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 253 OF 2024

1. Viren s/o Mohan Gavhane
Age: 34 Years, Occu. Private Job,
(Withdrawn)
- 2) Mohan s/o Maroti Gavhane
Age:62 Years, Occu. Nil
- 3) Dakshata w/o Mohan Gavhane
Age: 56 years, Occu. Household
- 4) Chetan s/o Mohan Gavhane
Age: 38 years, Occu. Private Job
- 5) Ashwini d/o Mohan Gavhane
Age: 32 years, Occu. Household

R no. 1 to 5 R/o Plot no. 12
Umred Road, Bande plot Chowk
Nagpur. Tq. and Dist.Nagpur

- 6) Suraj s/o Rajesh Shirpurkar
Age: 32 years, Occu. Private Job
- 7) Poonam w/o Suraj Shirpurkar
Age: 32 years, Occu. Household

R.no. 6 to 7 R/o: Bapu Nagar
Umred Road, Nagpur.
Tq. And Dist. Nagpur 44009.

...Applicants

VERSUS

- 1) The State of Maharashtra
Through Police Station Beed,
Tq. & Dist. Beed.
- 2) Tejshwini w/o Viren Gavhane
Age: 25 Years, Occu. Household,
R/o. Sant Namdeo Nagar,
Beed, Tq. & Dist. Beed

...Respondents

.....
Mrs. Surekha G. Chincholkar, Advocate for the applicants
Mrs. Rashmi P. Gour, A.P.P. for the respondent No.1
Mr. P.S. Dighe, Advocate for respondent No.2.
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**CORAM : SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**

DATED : 2nd APRIL, 2025

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

1. The applicants have filed this application under section 482 of the Code of Criminal Procedure, 1973 (for short Cr.P.C.) for quashing of First Information Report (for short "report") No. 308 of 2023, dated 10.06.2023, registered with Shivajinagar police station, Beed, District Beed for the offences punishable under Sections 323, 498-A, 504, 506 r.w. 34 of I.P.C.

2. After hearing both sides for some time, when this Court expressed disinclination to allow the application of applicant No.1, Viren s/o Mohan Gavhane, learned advocate for him, on instructions, seeks leave to withdraw his application. Leave granted. The application of applicant No.1 stands dismissed as withdrawn.

3. The informant-respondent No.2 is wife of accused No.1 Viren Mohan Gavhane. Applicant Nos. 2 and 3 are her in-laws. Applicant No.4 is brother-in-law and applicant No. 5 and 7 are the sisters-in-law

of the informant whereas applicant No.6 is husband of applicant No.7.

4. The informant in her report dated 10.6.2023 averred that she married with the son of applicant Nos. 2 and 3 Viren, on 02.12.2019. In the said marriage, an amount of Rs.10,00,000/- was incurred by her father. After marriage, the informant went for cohabitation with her husband at Nagpur. She was treated well for about two months. During that period, the husband of informant and in-laws were saying that her father has not given A.C. in the marriage. Thereafter, her father, by taking hand loan, sent an amount of Rs.30,000/- in the bank account of applicant No.4, brother-in-law Chetan, for purchasing the A.C..

5. The informant further averred in the report that at the end of February, 2020, the husband of the informant said that he is tired of work in private company, he has a plan to start a new business of sale and purchase of mobile phones and for that, he is in need of a shop/Gala. He therefore, demanded an amount of Rs.20,00,000/- to the informant and asked her to fetch that amount from her father. The applicants and her husband started to harass her. The applicants one after another used to harass her. The husband of the informant used to come at the house under the influence of liquor and he was

continuously abusing and beating her. The informant could not bear that harassment and therefore, she told that fact to the applicant Nos. 2 and 3 i.e. her in-laws but they supported the husband of the informant. The applicant Nos. 6 and 7 were residing near to her house. They were interfering in the matrimonial issues of the informant. They were encouraging the other applicants and husband of the informant to ill-treat and harass her. Therefore, husband of the informant used to come at home under the influence of liquor and used to beat her. Thereafter, the informant conceived and she delivered a baby boy on 28.9.2020. At that time, the lock down on account of Covid-19 pandemic was going on. Thereafter, on 31.12.2020, the husband of the informant made phone call to her father from a mobile phone of unknown person and demanded Rs.20,00,000/-. At that time, a quarrel took place between them. The informant filed a complaint under the provisions of Protection of Women from Domestic Violence Act 2005, bearing No. 639 of 2021 and also lodged the report under Section 498-A of I.P.C. against the applicants and her husband. The applicants and others filed an application No. 1883 of 2021 for quashing of the report in this Court. At that time, the applicants assured her that henceforth, they will not harass her. The compromise took place and report was quashed.

6. The informant further averred that again on 14.04.2022 the

applicants and her husband started to harass her by demanding money. They beaten her and abused her and therefore, report was lodged to the police station Nandanvan, Nagpur. She noticed that behaviour of the applicants and her husband was not changing. The applicants had cut down electricity connection of her house where she was residing with her son and husband. She was abused and assaulted by fist and kick blows by the accused. The informant narrated that incident to her parents by making a phone call to them on 10.7.2022. Hence her father went to Nagpur. On 11.7.2022, the statement of her father was recorded by Nagpur police but it went in vain.

7. After Diwali of 2022, when the informant came back to her matrimonial home at Nagpur, the applicants questioned her that how did she come back without money? The applicants threatened her. A quarrel was resolved by a cousin brother-in-law, Manoj Gavhane. She lodged the report of that incident bearing C.R. No. 2 of 2023. Her water connection on the third floor was also disconnected. Therefore, she lodged the report against the applicants and her husband. When she was lastly expelled from house on 16.2.2023, she lodged the report in question.

8. Learned advocate for the applicants submitted that no

specific allegations are made against the applicants in the report. All allegations are vague, omnibus and general in nature. There is delay in lodging the report. From the charge sheet, it appears that all the witnesses whose statements are recorded are from the parental side of the informant. The said statements of the witnesses cannot prove that the harassment and cruelty has been caused to the informant. All these applicants are close relatives of the husband of the informant and only in order to implicate the entire family and the relatives, the report has been falsely lodged, without cogent evidence against them. She further submits that the applicants have been falsely implicated in the crime. Therefore, she prayed to quash the report as well as the charge sheet.

9. 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. There was consistent demand of Rs.20,00,000/- for opening new mobile shop. The names of the applicants are mentioned in the report. The specific roles by mentioning their names are attributed to each of the applicants. They cannot be exonerated from the criminal liability under Sections 498-A, 323, 504, 506 r.w. 34 of I.P.C. It is lastly prayed to reject the application.

10. Learned advocate for respondent No.2-informant submitted that the applicants have treated the informant with cruelty. The names of the applicants are mentioned in the report with specific role attributed to them in respect of demand of Rs.20,00,000/- for starting of new mobile shop and due to non fulfillment of that demand, the informant has been harassed frequently by the applicants. The applicants have treated the informant with cruelty, which constitute the offences punishable under Sections 498-A, 323, 504, 506 r.w. 34 of I.P.C. Learned advocate lastly prayed to reject the application.

11. 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.....”

12. We have perused the report and the statements of the witnesses. Most of the facts stated by the witnesses are in consonance with the report. Those witnesses are her parents and relatives from parental side. The last incident had occurred at the time of Diwali of 2022. Thereafter, the informant came to her parents' house. Her husband or in-laws did not turn to fetch her back, therefore, she went at Nagpur with her father. It is alleged by the informant that the applicants abused her and threatened to kill her by saying that how did she come back to their house without money and she accordingly lodged the report. A meeting was called and therefore, on the assurance of treating her properly, she started to reside with the applicants and her husband. It is alleged that on 15.2.2023, her harassment was continued on the part of applicants

and her husband and therefore, she was asked not to stay there, unless she fetches that amount. She was expelled from the house. This incident, though the informant has stated occurred lastly, there is no specific allegations against these applicants as to who has done particular overt act of alleged cruelty. This shows that vague and omnibus allegations are made against the applicants. From the allegations of cruelty made by the informant and the statements of witnesses, offences punishable under Sections 498-A, 323, 504, 506 r/w 34 of I.P.C. are not establishing. There is no medical evidence of alleged injury caused to the informant due to the beating to establish essential ingredients of Section 323 of I.P.C. The vague allegations of abusing and threatening to the informant, intentionally insulting her, alleged criminal intimidation by giving threat to cause death are not establishing against the applicants. Thus, on such vague, baseless and omnibus allegations, compelling the applicants to face the trial, would be an abuse of process of the court. The case is made out for exercise of powers under section 482 of Cr.P.C. We are therefore, inclined to allow the application, in the interest of justice, to prevent abuse of process of the Court. Hence, the following order:-

O R D E R

- I. The application stands partly allowed.

- II. The F.I.R. No. 308 of 2023, dated 10.06.2023, registered with Shivajinagar police station, Beed, District Beed, for the offences punishable under Sections 323, 498-A, 504, 506 r.w. 34 of I.P.C. stands quashed to the extent of applicant Nos. 2 to 7.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

rlj/