



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 302 OF 2024

1. Kailash s/o Somnath Deore
Age 42 years, Occ. Service
R/o. Panchwati, Nashik
Tal. and District Nashik
(brother in law)
 2. Niraj s/o Kailash Deore
Age 42 years, Occ. Service
R/o. Panchwati, Nashik
Tal. and District Nashik
(Son of brother in law)
 3. Pratibha w/o Kailash Deore
Age 42 years, Occ. Service,
R/o. Panchwati, Nashik
Tal. and District Nashik
(Wife of brother in law)
 4. Kailash s/o Krushna Suryawanshi
Age 53 years, Occ. Business,
R/o. Jitendra Nagar, Business,
R/o. Jitendra Nagar, Nakane Road
Plot No.06, Deopur, Dhule
- ...Applicants

Versus

1. The State of Maharashtra
 2. Minakshi w/o Narendra Devre
Age 42 years, Occ. Household
Presently R/o. Gurudatta Colony,
Plot No.60, Shirpur,
Tq. And district Dhule
- ...Respondents

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Mr. S.A.Kulkarni and Ms. Rutuja Jakhade, Advocate for the applicants
Mr. S.A. Gaikwad, A.P.P. for the respondent No.1
Mr. Harshal P. Randhir, Advocate for respondent No.2.

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

DATED : 12th JUNE, 2025

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

1. The present application has been filed under section 482 of the Code of Criminal Procedure, 1973 (for short Cr.P.C.) for quashing of proceeding bearing R.C.C. No. 86 of 2020 pending before the Judicial Magistrate First Class, Shirpur, District Dhule, arising out of F.I.R. vide C.R.No. 135 of 2016 registered with Shirpur Police Station, District Dhule for the offences punishable under Section 498-A, 323, 504, 506 r.w. 34 of I.P.C.

2. The informant-respondent No.2 is the wife of brother of applicant No.1. The applicant Nos. 2 and 3 are son and wife, respectively, of applicant No.1 whereas applicant No.4 is uncle of applicant No.1.

3. The informant in her report dated 15.05.2016 averred that she married with the brother of applicant No.1 in the year 1999. She is residing with her husband, daughter Amisha and son Gunwant at the upper floor of the house whereas at ground floor of the said house her sister in law Pratibha Pradip Harale is residing. It is further averred in the report that after one to one and half years of her marriage, the applicants and their relatives started to abuse and beat

her by fist and kick blows and ask her to bring an amount of Rs.40,000/- for purchase of auto Rickshaw. They also used to harass her mentally and physically by doubting her character. The informant had told about the same to her mother Bhilabai and other relatives. The mother of the informant had convinced the applicants and other accused but it went in vain. Since there was no change in the behaviour of the applicants and others, the informant has filed the complaint.

4. Learned advocate for the applicants submitted that baseless allegations are made against the applicants without quoting the specific role of the each of the applicants. The allegation of demand of amount of Rs.40,000/- for purchase of auto rickshaw is also not specific against the particular applicant. All allegations are vague, omnibus and general in nature. There is a 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.

5. Learned A.P.P. for respondent No.1 State and learned advocate for respondent No.2 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.40,000/- for purchase of auto rickshaw. The applicants and other accused persons have caused harassment to the informant mentally as well as physically for non fulfillment of demand of Rs.40,000/-. 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.

6. 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.....”

7. 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 from parental side of informant. No specific date or time of incidents of causing cruelty are mentioned in the report. It appears that there is no specific allegations against these applicants as to who has abused and beaten the informant. This shows that vague and omnibus allegations are made against the applicants.

8. 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 injuries caused to the informant due to the alleged beating to establish essential ingredients of Section 323 of I.P.C. Thus, on such vague and baseless 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 the abuse of process of the Court. Hence, the following order:-

O R D E R

- I. The application stands partly allowed.
- II. The R.C.C. No. 86 of 2020 pending before the Judicial Magistrate First Class, Shirpur, District Dhule, arising out of F.I.R. vide C.R.No. 135 of 2016 registered with Shirpur police Station, District Dhule for the offences punishable under Section 498-A, 323, 504, 506 r.w. 34 of I.P.C. is quashed as against the present applicants.

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

rlj/