



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

CRIMINAL APPLICATION NO. 712 OF 2023

1. Abhishek s/o Bhagwan Shinde,
Age 36 Years, Occu: Service,
2. Bhagwan s/o Nivrutti Shinde,
Age 74 Years, Occu: Nil,
3. Aruna w/o Bhagwan Shinde,
Age 72 Years, Occu: Household,

Applicant Nos.1 to 3, All R/o Flat No.3,
Suryamukhi Ganesh, Apartment,
Kashid Nagar, Pimple Gurav,
Pune-411061.

4. Varsha w/o Sagar Satpute,
Age 34 Years, Occu: Household,
5. Sagar s/o Dattatray Satpute,
Age 35 Years, Occu: Service,

Applicant No.4 & 5, both R/o Flat No.203,
Saikrupa Apartment, Narhe,
Pune-411041.

... Applicants

Versus

1. The State of Maharashtra,
Through Police Inspector,
Police Station, Ashti,
Tq. Ashti, Dist. Beed.
2. Bharti Anil Mutkule,
Age 35 Years, Occu: Service,
R/o at present Vinayak Nagar,
Murshadpur, Ashti Tq. Ashti,
Dist. Beed.

... Respondents
(R-2 Org. Complainant)

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Mr. D. R. Adhav, Advocate for Applicants.

Mrs. R. P. Gour, APP for Respondent No.1 / State.

Mr. Aashish T. Jadhavar, Advocate for Respondent No.2.

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

DATE : 22nd April, 2025.

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

1 Heard the learned advocates for the respective parties.

2 This is an application 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.3 of 2023, pending in the Court of learned Judicial Magistrate First Class, Ashti, District Beed, arising out of FIR bearing Crime No.374 of 2022, dated 21st November, 2022, registered with Ashti Police Station, District Beed, for the offences punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code, 1860 (for short "the IPC").

3 Applicant No.1 is the husband of the informant / respondent No.2. Applicant Nos.2 and 3 are the parents-in-law and

applicant No.4 is the sister-in-law of the informant. Applicant No.5 is the husband of applicant No.4.

4 It is averred in the report by informant that she married with applicant No.1 on 9th May, 2018. In her marriage, her father gifted household articles and a gold ring weighing five grams to applicant No.1. After the marriage, the informant started to reside with applicant No.1 at Pimpri Gurav, Pune, alongwith applicant Nos.2 and 3. Initially, she was treated well, but after about 3 – 4 months, applicant Nos.2 and 3 started to harass her for trivial reasons. When the informant told this fact to applicant No.1, he too abused her and assaulted her by kick and fist blows, stating that her father had conducted the marriage in a temple and had not given adequate dowry. The informant further averred that she was denied food and was subjected to physical and mental harassment. During this period, she conceived. For the delivery, her father took her back to her parents' home at Ashti. On 3rd June, 2019, the informant delivered a baby boy at Ashti. At that time, the applicants came to Ashti to see the child. However, even after four months, the applicants did not come to take her back. Eventually, her parents took the informant and the child to the matrimonial home. Once applicant Nos.4 and 5 visited her matrimonial home and abused her, stating that she could neither cook properly nor manage household chores. When the informant questioned as to why she was

treated with cruelty, applicant No.4 told her that applicant No.1 wanted to purchase a four-wheeler vehicle and demanded Rs.2,00,000/-. When the informant told them that her father was not in a financial position to fulfill their demand, applicant No.1 again beat her. She was forced to do all the household chores alone, denied proper food, and was made to eat stale leftovers. She used to inform her father Anil, her brother Ajay, her maternal uncle Rajendra, and her aunt Usha about the continuous harassment by making phone call.

5 The informant further averred that on 7th May, 2022, applicant Nos.1 to 3 again abused her and denied her food, stating that she had not brought the money. They assaulted her and expelled her out of the house, warning her not to return unless she brought the demanded money. She, then returned to her maternal home with her minor son.

6 The informant further averred that on 28th August, 2022, the applicants came to her parental home in Ashti. After being offered tea, her father requested them to take the informant back to the matrimonial home. However, the applicants reiterated their demand of Rs.2,00,000/- for purchasing a four-wheeler and refused to take her back unless the demand was fulfilled. When her father expressed his inability to pay, the applicants started to abuse her father. Applicant

No.1 assaulted the informant and snatched the minor child Advik from her custody. He threatened her saying that she should not return without the money and that if she did, she would be killed. The applicants then left, taking the child with them. Therefore, she lodged the report.

7 The learned counsel for the applicants submitted that the applicants are falsely implicated in the crime. They have no concern with the said crime. The informant is not willing to stay with the applicants. The learned counsel pointed out that applicant No.1 has filed a complaint to the Police Station Ashti alleging that the informant and her father had cheated him. It was alleged that the informant made a drama of love. By taking applicant No.1 into confidence, the informant obtained his bank account details, including usernames, passwords, and other personal information. Subsequently, she gave birth to a child through IUI treatment at Ashti. It was mutually decided between applicant No.1, the informant and her father Anil that the child would be left in applicant No.1's custody. This decision was made in the presence of Rohidas Mahadev Gund and Prakash Pote. Thereafter, after obtaining applicant No.1's confidence, they transferred a total amount of Rs.5,80,000/- from applicant No.1's bank account into the bank account of Anil Kondiba Mutkule. Thereafter, applicant No.1 noticed change in the behavior of the informant. Once,

applicant No.1 checked the mobile handset of informant and found that the informant was chatting with one Akshay Dhonde. She was making video calls to said Akshay. When applicant No.1 questioned, she initially gave evasive and misleading answers. On further inquiry, she confessed that she had been in a romantic relationship with said Akshay and had previously eloped with him. A police complaint regarding her elopement had been filed by her father at Ashti Police Station. However, her father concealed this incident and arranged her marriage in Pune, against her will. Despite being married, she continued her affair with said Akshay and maintained contact with him even after the marriage. Later, upon reading informant's Instagram chat history, it was revealed to applicant No.1 that the informant was conspiring to abscond with the child of applicant No.1 alongwith said Akshay. Applicant No.1 told that plan to the father of informant. Subsequently, her father took the informant back with him from Pune. On 7th May, 2022, they left the son of informant with applicant No.1 and went away. The informant threatened to commit suicide.

8 The learned counsel for the applicants further pointed out the Notary agreement of compromise dated 2nd August, 2022, which was executed by the informant. He submitted that the report is lodged thereafter. In the said agreement, the informant confessed the love affairs with said Akshay Dhonde. He lastly prayed to allow the

application by quashing the report and the proceedings.

9 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. The applicants treated the informant with cruelty. The applicants demanded Rs.2,00,000/- to the informant for purchasing a four-wheeler vehicle. She was kept starved. Considering the gravity of the allegations and the role attributed to each applicant, the learned APP lastly prayed to reject the application.

10 The learned counsel for the informant / respondent No.2 also strongly opposed the application. He submitted that the names of the applicants are mentioned in the report. They treated the informant with cruelty. The applicants are involved in serious crime. They have committed anti-social crime. He lastly prayed to reject the application.

11 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....”

12 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.”

13 We have perused the charge-sheet, particularly, the report and the statements of witnesses. The real facts of the case are

revealed from the complaint made by applicant No.1 against the informant that she is having love affair with one Akshay Dhonde and she took away Rs.5,80,000/- from the bank account of applicant No.1. The informant has also stated in her statement dated 23rd July, 2022 recorded before the police that she took Rs.5,80,000/- from applicant No.1 as hand loan for the treatment of her mother. All these facts stated by her in the statement dated 23rd July, 2022 are different than the report dated 21st November, 2022. Thus, the report and the statements of witnesses are not believable. General and vague allegations are made against the applicants, which do not constitute the offence of cruelty etc. as the essential ingredients of Sections 498-A, 323, 504, 506 of the IPC are not establishing from it. If the entire charge-sheet is considered together, we are of the view that if the applicants are directed to face the trial, it would certainly be an abuse of the process of 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. Hence, the following order:-

ORDER

- I. The application is allowed.
- II. The proceedings in R.C.C. No.3 of 2023, pending in the Court of learned Judicial Magistrate First Class,

Ashti, District Beed, arising out of FIR bearing Crime No.374 of 2022, dated 21st November, 2022, registered with Ashti Police Station, District Beed, for the offences punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code, 1860, stands quashed as against all the applicants.

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