



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

CRIMINAL APPLICATION NO. 956 OF 2024

1. Rajendra Vitthal Chaudhari, (Husband)
Age- 44 Years, Occ- Labour,
2. Sumanbai Vitthal Chaudhari, (Mother in law)
Age- 80 Years, Occ- Household,

Both R/o- House No 5,
Lane No.5, Jai Javan Chowk,
Dhule, Tal. & Dist. Dhule.
3. Narayan Vitthal Chaudhari, (Brother in law)
Age-56 Years, Occ- Service,
R/o- Plot No 18, Nakane Road,
Court Colony, Deopur Dhule,
Tal. And Dist. Dhule.
4. Sunita Ashok Chaudhari, (Sister in law)
Age-53 Years, Occu-Household,
R/o- Navalnagar, Mohadi,
Tal. and Dist. Dhule.
5. Ashok Yashwant Chaudhari, (Husband of Sister in law)
Age-63 Years, Occu- Service,
R/o- Navalnagar, Mohadi,
Tal. and Dist. Dhule.
6. Sumit Ashok Chaudhari, (Nephew of Husband)
Age- 34 Years, Occu-Business,
R/o- House No 1672,
Lane No.5, Jai Javan Chowk,
Dhule, Tal. & Dist. Dhule.
7. Kanchan Vikrant Shelar, (Niece of Husband)
Age-32 Years, Occu- Household,
R/o- Nirmal Palace, Shrikrishna Nagar,
Trimbakeshwar, Tal. & Dist. Nashik.

8. Sunil Ratnakar Mahale, (Husband of Sister in law)
Age-55 Years, Occu-Service,
R/o- Mohini Apartment, Radhakrishna Nagar,
Ashok Nagar, Satpur, Tal. & Dist. Nashik.
9. Manisha @ Joyti Sunil Mahale, (Sister in law)
Age-50 Years, Occu-Household,
R/o- Mohini Apartment, Radhakrishna Nagar,
Ashok Nagar, Satpur, Tal. & Dist. Nashik..

... Applicants

Versus

1. The State of Maharashtra.
2. Sau. Yogita W/o Rajendra Chaudhari,
Age-36 years, Occ- Household,
R/o- Arun Nagar, Chopda,
Tq. Chopda, District-Jalgaon.

... Respondents

(Resp. No. 2 Orig. Complainant).

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Mr. Anudeep Dilip Sonar, Advocate for Applicants.

Mr. G. A. Kulkarni, APP for Respondent No.1 / State.

Ms. Diksha A. Sharma, h/f Mr. Sushil Pandit, Advocate for Respondent No.2.

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

DATE : 27th February, 2025.

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

. 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 the proceedings in R.C.C. No.200 of 2023, pending in the Court of the learned Judicial Magistrate First Class, Chopda, District Jalgaon, arising out of FIR bearing C.R. No.419 of 2023, dated 28th July, 2023, registered with Chopda City Police Station, District Jalgaon, for the offences punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code (for short “the IPC”).

3 After hearing the learned Advocates for both the sides, when this Court expressed disinclination to grant any relief to applicant Nos.1 and 2, the learned counsel for the applicants, on instructions, seeks leave to withdraw the application of applicant Nos.1 and 2. Leave granted.

4 It is averred in the report by the informant / respondent No.2 that her marriage was performed with accused No.1 on 8th May, 2004. Ten tolas gold and R.50,000/- in cash was given in the said marriage. After marriage, she started to reside with her husband, father-in-law Vitthal Chaudhari, mother-in-law Sumanbai Chaudhari and elder brother-in-law Narayan Chaudhari. Initially, her husband did not consume liquor. However, after some days, her husband used to come in the house under the influence of liquor. When the informant

tried to convince her husband not to consume the liquor, her mother-in-law, father-in-law and applicant No.3 were saying that "Are you bringing money from your father for drinking liquor". Therefore, quarrel used to take place between them. The applicants were instigating her husband by saying false things to her husband, when he used to come in the house under the influence of liquor. Later, in 2006, her father-in-law passed away. On 22nd June, 2006, the informant gave birth to a son. After some days, applicant Nos.4 to 9 came to see her newborn son. During the said visit, they demanded Rs.2,00,000/- towards the expenses of the marriage. She refused to pay the amount by convincing them that her parents are poor and they cannot pay that amount. She said that already ten tolas gold and an amount of R.50,000/- was given in the marriage. That time, applicant Nos.4 to 9 abused the informant in filthy language. They threatened that they will pour kerosene on her person and set her on fire. The informant went to the police station for lodging the report. That time, the police called her brother namely Kiran Kantilal Chaudhari there. Her husband took away her son Chetan Rajendra Chaudhari from her. Thereafter, her brother took her back to her maternal home. She made an application against the applicants to the Women's Vigilance Committee. However, nobody turned there. Therefore, she lodged the report against the applicants that they treated her with cruelty.

5 The learned counsel for the applicants submitted that the applicants are falsely implicated in the crime. The vague and omnibus allegations are made against the applicants, which are not establishing the essential ingredients of Sections 498-A, 323, 504 and 506 of the IPC. If the applicants are directed to face the trial, in such situation, they will certainly suffer. He lastly prayed to allow the application.

6 The learned APP for the State as well as the learned counsel for respondent No.2 strongly opposed the application and submitted that the applicants are involved in the serious crime. Their names are mentioned in the report. They have committed anti-social crime. They lastly prayed to reject the application.

7 We have perused the report and the statements of witnesses.

8 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....”

9 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 that 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.”

10 From perusal of the report and the statements of witnesses, it is clear that the witnesses have stated same fact of demand of Rs.2,00,000/- on the part of the applicants. They have stated that the husband of the informant was frequently drinking liquor and on the instigation of applicants, he was treating the informant with

cruelty. The incident of demand of Rs.2,00,000/- as stated by the informant in her report and the witnesses in their statements, was after the informant gave birth to a son on 22nd June, 2006, when applicant Nos.4 to 9 came there for visiting / seeing the son begotten to the informant.

11 Another incident stated by the informant is that on 21st July, 2022, applicant No.3 and other accused threatened the informant to set her on fire by pouring kerosene on her person and she lodged the report of it. However, that report is not placed on record.

12 The main applications are against applicant Nos.1 and 2, who were treating the informant with cruelty by demanding Rs.2,00,000/-. Their application has been withdrawn.

13 Applicant No.3 is the brother-in-law of the informant and he resides at Deopur Dhule. Applicant No.4 is the sister-in-law of the informant. Applicant No.4 is residing with her husband (applicant No.5) at Navalnagar, Mohadi, District Dhule. Applicant No.6 is the nephew and applicant No.7 is the niece of the husband of informant. They are residing at different places i.e. House No.1672, Lane No.5, Jai Javan Chowk, Dhule and Shrikrishna Nagar, Trimbakeshwar, Nashik, respectively. Applicant No.9 the sister-in-law of the informant and applicant No.8 is the husband of applicant No.9. Both these

applicants are residing at Mohini Apartment, Radhakrishna Nagar, Ashok Nagar, Satpur, District Nashik. From their residential address, it appears that they are not residing with the husband and mother-in-law of the informant. Though the incident is occurred in the year 2006 and same demand of Rs.2,00,000/- was continued, the report was not lodged immediately. As far as the incident of 21st July, 2022 is concerned, the informant has not stated in the report and the witnesses in their statements that on that day also, there was demand of Rs.2,00,000/-. Thus, omnibus allegations are made against applicant Nos.3 to 9. Their role is not specified as to when they treated the informant with cruelty. The essential ingredients of Sections 498-A, 323, 504 and 506 are not establishing against applicant Nos.3 to 9 either from the report or from the statements of witnesses. In such circumstances, if applicant Nos.3 to 9 are compelled to face the trial, it would certainly be an abuse of the process of Court. We are therefore, inclined to allow their application by exercising our inherent powers under Section 482 of the Cr.P.C. The application, therefore, deserves to be partly allowed. Hence, the following order:-

ORDER

- I. The application of applicant Nos.1 and 2 stands dismissed as withdrawn.

II. The proceedings in R.C.C. No.200 of 2023, pending in the Court of the learned Judicial Magistrate First Class, Chopda, District Jalgaon, arising out of FIR bearing C.R. No.419 of 2023, dated 28th July, 2023, registered with Chopda City Police Station, District Jalgaon, for the offences punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code, stands quashed only to the extent of applicant Nos.3 to 9 (Narayan Vitthal Chaudhari, Sunita Ashok Chaudhari, Ashok Yashwant Chaudhari, Sumit Ashok Chaudhari, Kanchan Vikrant Shelar, Sunil Ratnakar Mahale and Manisha @ Joyti Sunil Mahale)

III. The application stands disposed of.

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

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