



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

CRIMINAL APPLICATION NO. 1027 OF 2024

Nilima @ Ayesha w/o Hafiz Shaikh
@ Nilima Radhesham Garewar
Age: 40 years, Occ.: Household,
R/o. Plot No.09, Chalisgaon Road,
Near Apana Baker, Aysha Colony,
Dhule, Tq. & Dist. Dhule.

... Applicant

Versus

1. The State of Maharashtra
Through Police Inspector,
Chalisgaon Road Police Station,
Dhule, Tq. & Dist. Dhule
(F.I.R./Crime No.0154/2022 dated. 23.06.2022)
(Charge Sheet No. 88/2022 dated 12.09.2022)

2. Rizwana w/o Hafiz Shaikh
Age: 35 years, Occ.: Household,
R/o. Plot No.21, Near Al-Hera School,
Behind Fatema Masjid, 100 feet Road,
Dhule, Tq. & Dist. Dhule.

3. Hafiz Ibrahim Shaikh
Age: 41 years, Occ.: Labour,
R/o. Plot No.09, Chalisgaon Road,
Near Apni Bakery, Aisha Colony,
Dhule.

... Respondents

(Resp. No.2-Orig. Complainant)

...
Mrs. Shilpa L. Awchar, Advocate for Applicant.

Mr. A. D. Wange, APP for Respondent No.1 / State.

Mr. Mahendra Kochar, Advocate for Respondent No.2. (Appointed Through
Legal Aid)

...

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

DATE : 08th July, 2025.

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

1 Heard the learned advocates for the respective parties.

2 This application is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short “the Cr.P.C.”) for quashing of the proceedings/Charge Sheet bearing R.C.C. No.660 of 2022, pending in the Court of learned Judicial Magistrate First Class, Court No.6 Dhule, District Dhule, arising out of FIR bearing Crime No.154 of 2022, dated 23rd June, 2022, registered with Chalisgaon Road Police Station, District Dhule, 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 The applicant is the second wife of respondent No.3.

4 Respondent No.2 / informant averred in the report that her marriage was solemnized with respondent No.3 on 26th October, 2009 as per the Muslim customs and rituals. Their marital relationship continued till the date of filing of the complaint. From the said wedlock, the informant has three children.

5 The informant further averred that for about four years after the marriage, she resided at her matrimonial home alongwith her husband, parents-in-law and sister-in-law. Thereafter, she came to know that her husband was in a illicit relationship with a Medical Representative namely Nilima Garewar i.e. the applicant, residing in Nagpur, prior to his marriage with the informant, and that he had contracted a second inter-caste marriage with the applicant on 14th March, 2012. It was further disclosed that the said Nilima had changed her name to Ayesha.

6 The informant further averred that subsequently, a meeting was held at the informant's matrimonial home. The said meeting was attended by her relatives and in-laws, wherein respondent No.3 admitted to the second marriage and agreed that he would provide a separate rented house to the second wife and would continue to reside with both wives alternately i.e. one day with the informant and thereafter, one day with the applicant, in accordance with Islamic customs. The informant anyhow believed her husband and accepted that proposal. Thereafter, her husband started to reside alternately with the informant and the applicant. However, the applicant did not accept that compromise. The applicant was saying to the informant as to why she is calling her husband. The applicant started

to quarrel with her. The applicant instigated her husband by making false statements against the informant, where upon her husband started to abuse and beat the informant and threatened to kill her. Despite several efforts by both the maternal and matrimonial relatives of the informant to convince her husband, he refused to listen to anyone. Due to that, her husband and the applicant continuously quarreled with the her. Hoping that the situation would improve, the informant continued to tolerate the suffering and attempted to maintain the marital relationship. Thereafter, her husband was not attending the needs of the informant and their children and eventually stopped all communication with the informant, including phone calls, blocking her number on his mobile device. He then started to reside permanently with the applicant.

7 The informant further averred that a meeting was held on 7th December, 2016 at the informant's maternal home around 09:15 pm, attended by relatives from both sides and respected religious heads. Both her husband and the applicant were called. In the said meeting, again it was decided that her husband would alternately reside with both wives. Accordingly, an agreement was reduced into writing. All the prestigious persons signed it. However, the applicant refused to accept the arrangement and objected her husband signing the same. She raised her voice, used derogatory words against the

respectful persons present, and left the meeting. Her husband also left the meeting without signing the agreement. The relatives of the informant convinced her and again she was sent back for cohabitation.

8 The informant further averred that on 13th September, 2017, at about 11:00 a.m., her husband and the applicant came to her matrimonial home and raised a quarrel with her. They pulled the informant by her hair and dragged her out of the house. They abused and assaulted her and asked her to leave the premises alongwith her children. Her husband picked up a brick lying outside the house and attempted to throw it at the informant. However, the neighbours and shopkeepers in the area, who witnessed the incident, intervened and restrained her husband and snatched the brick from his hand and saved the life of the informant.

9 The informant further averred that on the next day i.e. 14th September, 2017, both her husband and the applicant again forcibly evicted the informant from the house alongwith her children and neglected all responsibilities related to their maintenance, including medical treatment. Since then, the informant is residing at her maternal home with her children. She hoped that her husband would someday come to take her back and that the situation would improve. Therefore, she did not lodge the report immediately. The report was

lodged on 23rd June, 2022.

10 The learned advocates for the applicant submitted that the applicant is falsely implicated in the crime. False allegations of treating the informant with cruelty are made against her. There is no cogent and acceptable material against her. Vague and general allegations are made against her. She lastly prayed to allow the application.

11 The learned APP for the State and the learned appointed counsel for respondent No.2 / informant strongly opposed the application and submitted that the applicant is involved in a serious crime. Her name is mentioned in the report. She treated informant with cruelty. She has committed anti-social crime. They lastly prayed to reject the applications.

12 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....”

13 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.”

14 We have perused the charge-sheet, particularly, the report and the statements of the witnesses. The witnesses have stated the similar facts as stated by the informant in her report.

15 The alleged incident of cruelty was lastly occurred on 14th September, 2017. The report is lodged on 23rd June, 2022 almost after 5 and half years. Thus, the report was not lodged within three years

as provided in Section 468 of the Cr.P.C. Therefore, the report is barred by the law of limitation, in view of law laid down by the Honourable Supreme Court in the case of ***Arun Vyas and another Vs. Anita Vyas***, reported in, ***(1999) 4 SCC 690***. Thus, compelling the applicant to face the trial, would be an abuse of the process of the Court. The case is made out for exercising powers under section 482 of the Cr.P.C. We are, therefore, inclined to allow the application, in the interest of justice and to prevent the abuse of the process of the Court. Hence, the following order:-

ORDER

- I. The application is allowed.
- II. The proceedings in R.C.C. No.660 of 2022, pending in the Court of learned Judicial Magistrate First Class, Court No.6 Dhule, District Dhule, arising out of FIR bearing Crime No.154 of 2022, dated 23rd June, 2022, registered with Chalisgaon Road Police Station, District Dhule, for the offences punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code, stands quashed as against the applicant.

[SANJAY A. DESHMUKH, J.]

[SMT. VIBHA KANKANWADI, J.]