



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

CRIMINAL APPLICATION NO. 1040 OF 2024

1. Kesharbai Ramdas Jagtap
Age: 60 years, Occu: Household,
2. Ramdas Sakhram Jagtap
Age: 71 years, Occu: Pensioner
Applicant Nos.1 & 2 R/o: At/post Chaphyacha Pada,
Tq. Satana, Dist. Nashik.
3. Bhagyarekha Nandakumar Bagul
Age: 43 years, Occu: Service,
R/o: Takali Dhokeshwar,
Tal. Partner, Dist. Nashik.
4. Nandkumar Parsharam Bagul
Age: 48 years, Occu: Service
R/o: RH-1, Khushali Heights,
Borgad, Nashik.
5. Abhiman Ratan Thakare
Age: 56 years, Occu: Agriculturist,
6. Sanjay Ratan Thakare
Age: 53 years, Occu: Agriculturist
Applicant Nos.5 and 6
R/o: At/post Gavhane Pada,
Tal. Satana Dist. Nashik.

... Applicants
(Orig. Accused)

Versus

1. The State of Maharashtra
Through Police Station Officer,
Pimpalner Police Station,
Tq. Sakri, District: Dhule.
2. Jayshree Dinesh Jagtap
Age: 32 years, Occu: Service,
R/o: Indira Nagar, Pimpalner,
Tal. Sakri, Dist. Dhule.

... Respondents
(No.2 Orig. Complainant)

...

Mr. Mohit S. Shah, Advocate for Applicants.

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

Mr. Ashutosh Kulkarni, Advocate for Respondent No.2. (Appointed)

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

RESERVED ON : 02nd May, 2025.

PRONOUNCED ON : 07th May, 2025.

J U D G M E N T : (Per Sanjay A. Deshmukh, J.)

1 Rule. Rule made returnable forthwith. With the consent of the learned Advocates appearing for the parties, heard finally at the stage of admission.

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 FIR (for short the "report") bearing Crime No.274 of 2020, dated 31st December, 2020, registered with Pimpalner Police Station, District Dhule, for the offences punishable under Sections 498-A, 406, 323, 504 and 506 read with 34 of the Indian Penal Code, 1860 (for short "the IPC"), as well as the consequential charge-sheet and the proceedings in Regular Criminal Case No.242 of 2021, pending in the Court of learned Judicial Magistrate First Class, Sakri, District Dhule.

3 Applicant Nos.1 and 2 are the parents-in-law of the informant / respondent No.2. Applicant Nos.3 is the sister-in-law of the informant. Applicant No.4 is the husband of applicant No.3. Applicant Nos.5 and 6 are the maternal uncles of the husband of informant.

4 The respondent No.2 / informant averred in the report that she married with the son of applicant Nos.1 and 2 on 19th April, 2016. At the time of marriage, her father had given her 5 tolas of gold ornaments and gifted her husband a 10 gram gold ring, a 10 gram gold chain, and also household utensils as *Streedhan*. Additionally, at the time of engagement, her husband was given a 5 gram gold ring. After the marriage, she started to reside at her matrimonial home in Nashik with her husband and applicant Nos.1 and 2. Applicant Nos.3 and 4 used to come to the house of informant. Occasionally, applicant Nos.5 and 6 also used to come to the house of informant.

5 The informant further averred that she was treated well for the first month of marriage. Thereafter, applicant No.1 told her not to talk to neighboring women and to not dress neatly. Despite informing them that she was pursuing an MBA and would behave accordingly, applicant No.1 taunted her by saying that she was the daughter of a beggar and that her parents had not given them enough dowry and respect. Applicants Nos.2, 3 and 4 told her that her husband was

employed in Mumbai. They told informant that her husband wants to purchase a flat at Mumbai. They demanded Rs.10,00,000/- to the informant for purchasing a flat in Mumbai. When she tried to convince them that her parents were poor and could not afford such a sum, they started to harass her. When applicants Nos.5 and 6 came to Nashik, they too questioned applicant No.3 whether the informant had brought money or whether her husband had bought a flat. This way they continued the harassment on the informant.

6 The informant further averred that on 27th April, 2016, her husband took her with him at Kalyan, District Thane, where they started to reside together while she continued her MBA studies. Her husband was employed with the Railway Department at Matunga. However, he used to doubt her character, instructing her not to talk to anyone on the mobile handset and not to contact her parents. In the year 2018, when she became pregnant, she and her husband started to live at a flat in Khadakpada. Thereafter, on 21st August, 2018, she delivered a baby girl at the Railway Hospital, Kalyan. The informant further stated that her husband suspected her character and restricted her mobile usage. He occasionally abused and assaulted her and even expelled her from the house late at night. Despite enduring such treatment, she continued to perform her marital duties sincerely.

7 The informant further averred that on 12th January, 2019,

her husband sent her to the house of applicant Nos.1 and 2 at Nashik. He blocked her phone number and refused to communicate with her. On 21st August, 2019, on the occasion of their daughter's birthday, he did not visit. Later, on 12th March, 2020, at around 10:00 am, applicants Nos.1, 2 and 4 forcibly took away her ornaments, including a 3 tola *Mangalpot*, 1.5 tola *Mangalsutra* and a 5 gram gold ring. They then took her to her sister Anita Dhondu Gavit's residence at Pathardi Phata, Nashik, and warned her not to return. Subsequently, she contacted her parents and went back to Pimpalner.

8 The informant further averred that on 20th October, 2020, at around 01:00 pm, all the applicants came to her parental home in Pimpalner by private vehicle. She welcomed them respectfully. However, they accused her of having bad character. They insisted for taking divorce. Her parents defended her, stating she was well educated (up to MBA) and that now the informant and her husband had begotten a daughter. Despite their efforts to convince them, the applicants abused them and left the place without taking her back.

9 The informant further averred that on 27th November, 2020, the informant approached the *Bharosa Cell*, Dhule. All the applicants were summoned on 24th December, 2020, however, they refused to take her back. Therefore, she lodged the report.

10 The learned counsel for the applicants submitted that the applicants are falsely implicated in the crime due to matrimonial discord between the informant and her husband. He submitted that general and vague allegations are made against the applicants. They are implicated in the crime with an ulterior motive to harass the applicants, who are the relatives of the husband. If the applicants are compelled to face the trial, they will certainly suffer. He lastly prayed to allow the application.

11 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. They treated informant with cruelty. They demanded Rs.10,00,000/- to the informant for purchasing a flat. He lastly prayed to reject the application.

12 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 are involved in serious crime of causing cruelty to the informant. They have committed anti-social crime. Specific and detailed allegations made in the report clearly demonstrate the active and deliberate role played by each of the applicants. He lastly prayed to reject the application.

13 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....”

14 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.”

15 We have perused charge-sheet, particularly, the report and the statements of witnesses. On perusal of the report and the statement of Anita Dhondu Gavit, sister of the informant, it appears that the alleged incident of 12th March, 2020, had taken place. The ornaments of informant were taken away from her person. The informant was left to the witness's house and then she went to her parental house. The role of applicant Nos.1, 2 and 4 is specifically spelled out in the report and supported by the statements of witnesses. About the incident dated 20th October, 2022, it is alleged that all the applicants went to her parents' house. She welcomed them respectfully and gave hospitality to them. That time, they made allegations on the character of the informant and insisted for divorce. Her parents tried to convince them that a daughter is begotten to the informant and they should not think of divorce. That time, all the applicants abused them and went away. There are two incidents on which the applicants treated the informant with cruelty. They snatched and took away gold ornaments and doubted her character. She was left at the house of her relative namely Anita Dhondu Gavit at Nashik. These two incidents, in addition to the earlier incidents of causing of cruelty, if considered together, certainly those are establishing causing of cruelty as contemplated by Section 498-A of the IPC.

The essential ingredients of Section 406 of the IPC i.e. criminal breach of trust are also established from the conduct of the applicants that they snatched her ornaments. This is an offence of theft which is punishable under Section 379 of the IPC. The investigating officer erred in applying Section 406 instead of Section 379 of IPC. It is serious overt act on the part of the applicants. If all these aspects are considered together, then certainly the offences punishable under Sections 498-A, 379, 323, 504 and 506 of the IPC are establishing against the applicants. The applicants are certainly not entitled for the relief of quashing of the report, charge-sheet and the proceedings, as there is reliable evidence against them. Considering all the facts and circumstances of the case, we are not inclined to allow the application by exercising our inherent powers under Section 482 of the Cr.P.C. The application deserves to be rejected. Hence, the following order:-

ORDER

- I. The application is rejected.
- II. The fees of Mr. Ashutosh Kulkarni, learned appointed counsel for respondent No.2 is quantified at Rs.7,000/- and it is to be paid through the High Court Legal Services Sub-Committee, Aurangabad.
- III. Rule is discharged.

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