



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1172 OF 2024

1. Milind s/o Maroti Sarwade
2. Arvindabai w/o Maroti Sarwade
3. Kalpana w/o Gautam Waghmare
4. Gautam s/o Bhanudas Waghmare
5. Shobha w/o Sampat Waghmare
6. Sampat s/o Bhanudas Waghmare
7. Rukmin @ Sushila w/o Baban Wanjare ...Applicants

Versus

1. The State of Maharashtra
2. Usha w/o Milind Sarwade ...Respondents

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Mr. Amol R. Gaikwad, advocate for the applicants
Mrs. Rashmi P. Gour, A.P.P. for respondent No.1
Mr. Bhaskar L. Dhas, advocate for respondent No.2
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**CORAM : SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.
DATED : 24th FEBRUARY, 2025**

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

1. By way of this application, filed under Section 482 of the Code of Criminal Procedure, 1973 (for short "the Cr.P.C."), the applicants are seeking quashment of First Information Report (for short "the F.I.R.") No. 454 of 2023, registered with Shivaji Nagar police station, Beed, district Beed, for the offences punishable under sections 498-A, 323, 504, 506 r.w. 34 of I.P.C. and the consequential criminal case being R.C.C. No. 13 of 2024, pending before the

Judicial Magistrate First Class, Beed.

2. The informant averred in the report that applicant No.1 is husband, applicant No.2 is her mother-in-law, applicant No.3 is sister in law, applicant No.4 is husband of applicant No.3, applicant No.5 is another sister-in-law and applicant No.6 is husband of applicant No.5 and applicant No.7 is sister of mother-in-law of the informant. Respondent No.2-informant further averred in the report that she married with applicant No.1 on 09.09.2012 at Shidod. After marriage, she went to her matrimonial house for cohabitation. She was treated well for about 8 months. On 4.5.2013, at about 7.00 p.m. applicant No.1-husband of the informant asked the informant to bring amount of Rs.50,000/- and a pulsar motor cycle. At that time, he beat her by fist and kick blows. He also slapped her. Applicant No.2, her mother-in-law, all sisters in-law were teasing her by saying that she is black and she was brought there for washing utensils and clothes only. Nobody was ready to marry with her. They were treating her with cruelty by keeping her on starvation, abusing and beating her frequently. Applicant No.4 Gautam, husband of sister-in-law of the informant was serving in police department at Wadwani. He alongwith Dilip Payal and applicant No.6-Sampat Waghmare, threatened the informant that they will kill her and her parents will not do anything. Applicant No.7 Rukmin was saying that she is serving in

the Municipal Council, she is in contact with some leaders and influential persons. She will eliminate her and her parents cannot do anything. All the applicants harassed her for demand of Rs.50,000/-. They expelled her from the house. She told those incidents to her parents. The parents of the informant tried to convince the applicants stating that their financial condition is poor and they are not able to pay that amount of Rs.50,000/- and give the pulsar motorcycle. Her relatives also tried to convince them not to harass the informant and requested them to give her proper treatment and thus, she was again sent for cohabitation. The informant further averred in the report that on 13.6.2013 the applicants demanded an amount of Rs.50,000/- and a pulsar motor cycle. They abused, beat and threatened to kill her. They expelled her from house. Therefore, she lodged the report on 23.8.2023.

3. Learned advocate for the applicants submitted that the applicants are falsely implicated in the crime. The respondent No.2-informant is not willing to cohabit with applicant No.1. She had filed an application for maintenance as per the provisions of Protection of Women from Domestic Violence Act, 2005. The said application is allowed and the informant is getting maintenance of Rs.2500/- p.m. The informant had also filed an application for maintenance under Section 125 of the Cr.P.C., being Misc. Criminal Application No. 129

of 2014, in which she is getting maintenance of Rs.5000/- p.m. He submitted that the report is lodged after 10 years, which is barred by law of limitation as per the provisions of Section 468 of the Cr.P.C. He submitted that no any specific incident is quoted in the F.I.R. The applicants are falsely implicated in the crime. Therefore, this is a fit case to exercise the inherent powers of this Court under Section 482 of the Cr.P.C. for quashing the F.I.R. and the charge sheet. He prayed to quash the F.I.R. and charge sheet.

4. Learned A.P.P. for respondent No.1-State strongly opposed the application by submitting that the names of the applicants are mentioned in the F.I.R. Even the specific roles are attributed to each of the applicants. Furthermore, the applicants have treated the informant with cruelty, physically as well as mentally due to non fulfillment of demand of Rs.50,000/- and pulsar motor cycle. They cannot be exonerated from the criminal liability. It is lastly prayed to reject the application.

5. Learned advocate for respondent No.2 submitted that the names of the applicants are mentioned in the report with specific role attributed to each of them. There was illegal demand of Rs.50,000/- and also a pulsar motorcycle from the parents of the informant. The informant used to tell about the ill-treatment and harassment caused

to her by her parents. Upon which, the parents of the informant tried to convince the applicants stating that their financial condition is poor and they are not able to pay that amount. The relatives of the parents of the informant have also tried to convince them requesting not to harass the informant and to give her proper treatment and she was again sent for cohabitation. The applicants beat and threatened to kill her. They expelled the informant from the house. The applicants have treated the informant with cruelty, which constitute the offences under Sections 498-A, 323, 504, 506 r.w. 34 of I.P.C. Learned advocate therefore, prayed to reject the application.

6. We have perused the report and the charge sheet. The statements of relatives of the informant are mostly in consonance with the report in question. The informant and the witnesses have stated in the report that the incidents took place on 4.5.2013 and 13.6.2013. The allegations are that the informant was beaten by the applicants by fist and kick blows, however, there is no supportive evidence to the said allegations, like injury certificate etc. In so far as allegations of demand of Rs.50,000/- and a pulsar motor cycle are concerned, those are omnibus, as no specific incident is quoted as to when and where these applicants were gathered and treated her with cruelty. The applicant Nos. 3 to 7 are not residents of one and the same place. The sisters in law of the informant are married and they

are residing at their respective matrimonial places. The sister of mother-in-law of the informant i.e. applicant No.7 is residing at some different place. Therefore, on such omnibus allegations the report lodged by the informant is not sustainable.

7. As far as the delay caused for lodging report is concerned, the alleged incidents took place on 4.5.2013 and 13.6.2023. Here it would be appropriate to refer to the provisions of Section 468 of the Cr.P.C.

“468. Bar to taking cognizance after lapse of the period of limitation.- (1) Except as otherwise provided elsewhere in this code, no Court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.

(2) the period of limitation shall be -

- (a) six months, if the offence is punishable with fine only,
- (b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;
- (c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years,

(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe

punishment or, as the case may be, the most severe punishment.”

8. Sub-clause 2(c) of Section 468 of Cr.P.C. stipulates that if the offence is punishable upto three years, the report must be lodged within three years. In the case in hand, Section 498-A of I.P.C. provides three years punishment. The report is lodged after 10 years. There is no explanation for such a huge delay. No any subsequent incident is stated by the informant. The report lodged by the informant is beyond a period of three years, which is not permissible in terms of the provisions of Section 468(1)(c) of Cr.P.C. In the cases of ***Udai Shankar Awasti vs. State of Uttar Pradesh and another, reported in (2013) 2 SCC 435*** and ***Kamlesh Kalra vs. Shilpika Kalra and others, MANU/SC/0812/2020***, the Hon'ble Supreme Court has quashed the charges those were initiated beyond the period of three years and even no explanation was furnished either in the F.I.R. or in the charge sheet. The proceedings are barred by limitation.

9. Considering the submissions of both sides, particularly the vague and omnibus allegations of cruelty on account of non fulfillment of demand of Rs.50,000/- and a pulsar motor-cycle, as well as alleged mental torture by beating and abusing her without any support, we are of the view that essential ingredients of Section 498-

A of I.P.C. and other sections invoked against the applicants are not establishing. The F.I.R. and charge sheet in question are barred by limitation as per the provisions of Section 468 of the Cr.P.C. The application therefore, deserves to be allowed by exercising our powers under section 482 of the Cr.P.C. in the interest of justice for quashing the report and the charge sheet. Thus, we are inclined to allow the application. Hence, the following order:-

O R D E R

- I. The application is allowed.
- II. The F.I.R. No. 454 of 2023, registered with Shivaji Nagar police station, Beed, district Beed, for the offences punishable under sections 498A, 323, 504, 506 r.w. 34 of I.P.C. and the consequential criminal case being R.C.C. No. 13 of 2024 pending before the Judicial Magistrate First Class, Beed are quashed.

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

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