



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

CRIMINAL WRIT PETITION NO. 519 OF 2024

- 1] Rajendra S/o Dagduba Nirmale.
- 2] Laxmi W/o Dagduba Nirmale.
- 3] Ganpati S/o Dagduba Nirmale.
- 4] Pallavi D/o Dagduba Nirmale. **... Petitioners**

Versus

- 1] The State of Maharashtra.
- 2] Maya W/o Rajendra Nirmale. **... Respondents**

...

Mr. Avinash A. Phad, Advocate for Petitioners.

Mr. V. K. Kotecha, APP for Respondent No.1 / State.

Mr. Pradeep B. Salunke, Advocate for Respondent No.2.

...

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

DATE : 26th February, 2025.

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

1 Heard the learned advocates for the respective parties.

2 This is a writ petition under Section 482 of the Code of Criminal Procedure, 1973 (for short "the Cr.P.C.") for quashing the FIR bearing C.R. No.697 of 2023, dated 11th December, 2023, registered

with Ahmedpur Police Station, Taluka Ahmedpur, District Latur, for the offences punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code (for short “ the IPC”) and the consequential charge-sheet bearing No.347 of 2023.

3 After hearing the learned Advocates for both the sides, when this Court expressed disinclination to grant any relief to petitioner No.1, the learned counsel for the petitioners, on instructions, seeks leave to withdraw the petition of petitioner No.1. Leave granted.

4 Petitioner No.2 is the mother-in-law, petitioner No.3 is the brother-in-law and petitioner No.4 is the sister-in-law of the informant / respondent No.2.

5 The informant averred in the report that she married with accused No.1 on 4th May, 2021 by giving an amount of dowry of Rs.1,00,000/- alongwith 5 grams gold ring. It is further averred by the informant that after the marriage, she was treated well for about six months. Thereafter, her husband, mother-in-law, brother-in-law and the sister-in-law started to demand Rs.1,00,000/- for starting a new business from her parents. They abused her in filthy language and also beat her by kick and fist blows. The informant was kept on starvation. They did not provide the new clothes to the informant when

required. The informant told that harassment to her mother, brother and other relatives. The informant's side tried to convince the in-laws of the informant and requested them not to ill-treat her. But no change was noticed in the conduct of the petitioners. When the informant fell ill, her in-laws refused to take her to the hospital for treatment. The informant called her mother and brother to convince the petitioners. When they arrived at the matrimonial house of the informant, the petitioners abused and threatened them and expelled the informant and her relatives out of the house. The husband of the informant abused and beat the informant by kick and fist blows. The informant was willing to cohabit with her husband, however, all the accused continued to demand that amount of Rs.1,00,000/-. She could not fulfill that demand. Therefore, she was expelled from the house. Therefore, she lodged the report.

6 The learned counsel for the petitioners submitted that the petitioners are falsely implicated in the crime. They never made any demand of amount. They have not beaten the informant. The informant has lodged false report against the petitioners. There is no reliable evidence against the petitioners to proceed further with the trial. If the petitioners are directed to face the trial, in such circumstances, it would certainly be an abuse of the process of the Court. He lastly prayed to allow the petition by quashing the report

and the consequential charge-sheet, pending against the petitioners.

7 The learned APP for the State strongly opposed the petition and submitted that the report is lodged on 11th December, 2023 and the marriage of the informant with accused No.1 was performed on 4th May, 2021. After six months of the marriage, the petitioners started to harass the informant. Their names are mentioned in the report. Not only demand of Rs.1,00,000/- was made, but the informant was also beaten. The petitioners abused the informant and expelled her from the house for demand of Rs.1,00,000/-. He lastly prayed to reject the petition.

8 The learned counsel for respondent No.2 also strongly opposed the petition and submitted that the petitioners are involved in the serious crime of treating the informant with cruelty and there is no justification to allow this petition. He submitted that after six months of the marriage, the husband of the informant and the petitioners demanded Rs.1,00,000/- to the informant for starting a new business. They were keeping the informant starved. They were not purchasing clothes for her. All these acts constitute the offence punishable under Sections 498-A, 323, 504 and 506 of the IPC. He submitted that there is strong evidence against the petitioners about the said demand. He lastly prayed to reject the petition.

9 We have perusal the report and the charge-sheet,
particularly, the statements of the witnesses.

10 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....”

11 A reference 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.”

12 The brother, mother and the uncle etc. of the informant have stated in their statements that the informant was harassed by demanding Rs.1,00,000/- for starting a new business. They have further stated that some meetings were held, however, the accused continued to harass the informant. The brother of the informant has stated that the informant is residing with him since last one and half years. She was expelled from the house for the amount for Rs.1,00,000/-, which was not paid by him. The learned counsel for the informant though submitted that the names of the petitioners are mentioned in the report, no specific incident is stated as to when these petitioners treated the informant with cruelty by demanding Rs.1,00,000/- and beat her by kick and fist blows. In support of beating to the informant, there is no evidence of medical treatment. The main allegations are made against the husband of the informant and his petition has been withdrawn. The omnibus allegations are

made against petitioner Nos.2 to 4 that they treated the informant with cruelty. Even the last incident when the informant was expelled from the house, is not specifically stated by the informant in the report and the witnesses in their statements, as to when that incident took place. Since one and half years, the informant is residing with her parents. Petitioner No.4 is residing at Thermal Power Station Colony, Parli Vajjnath, District Beed. Her role is also not specifically stated as to when she came to the house of her parents and treated the informant with cruelty. The omnibus allegations are made against petitioner Nos.2 to 4. If the entire charge-sheet is considered together, particularly, the report of the informant, we are of the view that the essential ingredients of Sections 498-A, 323, 504 and 506 are not establishing from it. In such a fact situation as discussed above and the reasons stated above, if petitioner Nos.2 to 4 are compelled to face the trial on such material, it would certainly be an abuse of the process of the Court. We are, therefore, inclined to allow the petition by exercising our inherent powers under Section 482 of the Cr.P.C. in the interest of justice to prevent abuse of the process of Court. The petition, therefore, deserves to be partly allowed. Hence, the following order:-

ORDER

- I. The petition of petitioner No.1 stands dismissed as withdrawn.

- II. The petition is allowed in terms of prayer clause (B) to the extent of petitioner Nos.2 to 4.
- III. The criminal writ petition stands disposed of.

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