



IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1298 OF 2024

1. Rashid Shaikh S/o. Gulab Shaikh (Withdrawn).
2. Gulab Shaikh S/o. Raheman Shaikh,
Age : 77 Years, Occu. : Agriculturist,
R/o. Ghungarde Hadagaon,
Tq. Ambad, Dist. Jalna.
3. Mannabi Shaikh W/o. Gulab Shaikh,
Age : 75 Years, Occu. : Agriculturist,
R/o. Ghungarde Hadagaon,
Tq. Ambad, Dist. Jalna.
4. Aarefa Pathan W/o. Nasim Pathan,
Age : 47 Years, Occu. : Agriculturist,
R/o. Village Ghonsi Khurd,
Tq. Ghansavangi, Dist. Jalna.
5. Najim Pathan S/o. Baba Pathan,
Age : 48 Years, Occu. : Agriculturist,
R/o. Village Ghonsi Khurd,
Tq. Ghansavangi, Dist. Jalna.

.... Applicants

VERSUS

1. The State of Maharashtra
Through Sadar Bazar Police Station,
Jalna.
2. Shaikh Aasia W/o. Shaikh Rashid,
Age : 29 Years, Occu. : Housewife,
C/o. Shaikh Rashid S/o. Shaikh Kasim,
R/o. Near Raj Mahal Talkies, Jalna.

.... Respondents

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Advocate for Applicants : Mr. Sagar S. Ghate
APP for Respondent No.1-State : Mr. V.K. Kotecha
Advocate for Respondent No.2 : Mr. A.R. Syed

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

Dated : 05th August 2025

ORDER [PER SANJAY A. DESHMUKH, J.] :-

1. Heard learned Advocate for both sides as well as learned APP for the State.
2. This is an application under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “the Cr.P.C.”) for quashing the proceedings in Regular Criminal Case No.35 of 2024, pending before the learned Judicial Magistrate First Class, Jalna, arising out of Crime bearing No.0942 of 2023, registered with Sadar Bazar Police Station, Dist. Jalna, dated 11.11.2023, for the offences punishable under Sections 498-A and 504 read with Section 34 of the Indian Penal Code, 1860 (hereinafter referred to as “the I.P.C.”).
3. After hearing both the sides, when this Court expressed disinclination to grant any relief to applicant No.1/husband, the learned Advocate for the applicants sought withdrawal of the application to the extent of applicant No.1. Therefore, vide order dated 21.03.2024, this application is dismissed as withdrawn against applicant No.1.

4. Learned Advocate for the applicants pointed out the report dated 11.11.2023, in which respondent No.2/informant averred that applicant No.2 is her father-in-law, applicant No.3 is her mother-in-law, applicant No.4 is her sister-in-law and applicant No.5 is the husband of applicant No.4.

5. The informant further averred in her report that she married with the son of applicant Nos.2 and 3 on 12.03.2010. She begot three daughters. Initially, she was treated well for five years. Thereafter, the applicants and her husband started to harass her by saying that they don't like her, she is not able to work properly. She made a phone call to her brother. He tried to convince her and said her to cohabit. But her harassment was continued. She was frequently abused and treated with cruelty physically and mentally. Prior to fifteen days of lodging of the report, she came to her parents house and lodged the report.

6. Learned Advocate for the applicants submitted that applicant Nos.2 to 5 are falsely implicated in the crime. General and vague allegations are made against these applicants. Although the specific incidents of cruelty are stated by the informant in the report and by the witnesses in their statements, the fact of cruelty is not

established from the entire charge-sheet against these applicants. False allegations of cruelty are made against these applicants. The essential ingredients of offences punishable under Sections 498-A and 504 of the I.P.C. are not established against these applicants. If they are compelled to face the trial, it would certainly be an abuse of the process of the Court. It is lastly prayed to allow the application.

7. Learned APP for the State strongly opposed the application and submitted that there is strong evidence of cruelty against applicant Nos.2 to 5. Their names are mentioned in the F.I.R. These applicants treated the informant with cruelty and caused her physical and mental cruelty. They compelled her to reside at her parents house. It is lastly prayed to reject the application.

8. Learned Advocate for respondent No.2/informant also strongly opposed the application and submitted that applicant Nos.2 to 5 are involved in the crime of treating the informant with cruelty. The specific incidents are stated by the informant in the report that these applicants treated her with cruelty. The names of these applicants are mentioned in the F.I.R. There are statements of witnesses corroborating with the version of the informant. There is strong evidence against these applicants to proceed further with the

trial. Therefore, the application deserves to be rejected as there is reliable evidence against these applicants to establish the requisites of offences punishable under Sections 498-A and 504 of the I.P.C. He prayed to reject the application.

9. It would be relevant to rely upon the judgment of the Hon'ble Supreme Court in the case of *Disha Kapoor vs. State of Uttar Pradesh and others, reported in 2025 SCC OnLine SC 1070*, wherein it is held that the Courts to be doubly cautious and extremely careful in dealing with such complaints, especially since the ultimate object of justice is to find out the truth and not only to punish the guilty but also to protect the innocent.

10. We have perused the charge-sheet, particularly the report and statements of witnesses. There are two allegations against applicant No.2 to 5. The allegations of cruelty made against these applicants by the informant that she is not liking them and not able to cook food properly are certainly not facts of the cruelty. To establish cruelty as contemplated by Section 498-A of the I.P.C. i.e. cruelty coupled with demand or cruelty driving to commit suicide, etc. is not established against these applicants. The general and vague allegations are made against these applicants, without specifying their

particular role and the particular time with particular date of the incident of causing harassment to the informant. There are serious allegations of demand of money and harassment against other co-accused, against whom the application is already dismissed as withdrawn.

11. To establish cruelty as contemplated under Section 498-A of the IPC, it is necessary to establish its essential ingredients as defined in it that there was a demand for money or dowry, or cruelty that drives the woman to commit suicide or to cause grave injury or danger to her life, or mental or physical health. There is no such material on record to show the overt act of applicant Nos.2 to 5 to establish cruelty caused by them.

12. There is no material to show that applicant Nos.2 to 5 intentionally insulted the informant with intent to provoke breach of peace. The essential ingredients of Sections 498 and 504 of the IPC are not established against these applicants.

13. Considering the facts of the case, law laid down in **Disha Kapoor (Supra)** and reasons discussed above, we are inclined to exercise our powers under Section 482 of the Cr.P.C. to quash the report and charge-sheet in the interest of justice to prevent the abuse

of the process of the Court against applicant Nos.2 to 5. The application deserves to be partly allowed. Hence, the following order.

ORDER

- I) The application is partly allowed.
- II) The application of applicant No.1 is dismissed as withdrawn by order dated 21.03.2024.
- III) The proceedings in Regular Criminal Case No.35 of 2024, pending before the learned Judicial Magistrate First Class, Jalna, arising out of Crime bearing No.0942 of 2023, registered with Sadar Bazar Police Station, Dist. Jalna, dated 11.11.2023, for the offences punishable under Sections 498-A and 504 read with Section 34 of the Indian Penal Code, stands quashed against applicant Nos.2 to 5 only.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE