



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1167 OF 2023

1. Fahimunnisa Momin Mohammad
Ibrahim Momin
Age 62 years, Occ. Household
R/o. 214/3, Yusuf Faiz Chawl,
Takiya Ward, Kurla (West)
Mumbai 400 070
(mother in law) (withdrawn)
 2. Nazema Kauser Mohammed
Maseeyuddin
(abated) (sister in law)
 3. Mohammed Maseeyuddin Hafijuddin
Momin
Age 54 years, Occ. Business,
R/o. Mominpura, Near Jama
Masjid, Beed,
Tq. and district Beed
(Husband of sister in law)
- ...Applicants

Versus

1. The State of Maharashtra
Through Police Inspector
Shivaji Nagar police station
Beed, Tq. and district Beed
 2. Arshiya Begum Mohammad Riyaz,
Age 32 years, Occ. Service
R/o. Kazi Nagar, Balepir,
Nagar Road, Beed
Tq. and district Beed
- ...Respondents

.....
Mr. N.K. Tungar, Advocate for the applicants
Mr. A.R. Kale, A.P.P. for the respondent No.1
Mr. Sayyed Tausif , advocate for respondent No.2
.....

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

DATED : 4th JULY, 2025

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

1. Heard learned advocates for the applicants for the respective parties.

2. This is an application filed under Section 482 of the Code of Criminal Procedure, 1973 (for short "the Cr.P.C.") for quashing the criminal proceeding bearing R.C.C. No. 75 of 2023 pending before IInd Judicial Magistrate, First Class, Beed, District Beed, and charge sheet No. 19 of 2023 arising out of F.I.R. No. 18 of 2023, dated 12.1.2023, registered with Shivaji Nagar police station, Beed, District Beed, for the offences punishable under Sections 498-A, 323, 504, 506 r.w. 34 of the Indian Penal Code, 1860 (for short "the I.P.C.").

3. After hearing for some time, when this court showed disinclination to grant relief to applicant No.1, learned advocate for the applicants, on instructions, seeks leave to withdraw the application of applicant No.1. Leave granted. The application to the extent of applicant No.1 stands dismissed as withdrawn. The application stands abated as against the applicant No.2 as she died during pendency of proceeding. Hence, this application is being considered to the extent of applicant No.3 only.

4. The informant averred in the report that applicant Nos. 3 is husband of her sister in law i.e. applicant No.2, presently she is no more.

5. The informant further averred in the report that she married with co-accused Shaikh Mohammad Riyaz Mohammad Ibrahim asper Muslim rituals on 27.10.2013. After marriage, she went to reside at her matrimonial house at Mominpura, Beed with her husband and in laws. Out of the wedlock, he informant begotten one son Umer and one daughter Barira. The informant averred that on 25.11.2024, her husband had asked her to bring Rs.10,00,000/- from her parents for procuring a job and for purchase of four wheeler. The parents in laws assaulted the informant and used bad words. The applicant used to harass the informant mentally as well as physically and starve her. The informant told about the same to her parents and her parents tried to convince the applicant, her husband and other in laws.

6. The informant further averred that in the meantime, she conceived and she gave birth to a baby boy viz. Umer. After 3-4 months of her delivery, the applicant and others accused persons started to harass her and used to demand money. Though the parents of the informant had been to her matrimonial home, tried to

pacify them but it was of no use and on the contrary, the harassment and cruelty was increased. The other accused persons used to instigate the husband of the informant for her ill-treatment. Again, the informant conceived and she gave birth to a baby girl Barira. The informant averred that considering the future of the children, she was residing with the applicant and other accused persons in such situation.

7. The informant further averred that her husband asked her to bring amount of Rs.10,00,000/- for securing a job and for purchasing of four wheeler. The informant lastly averred that her husband driven her out of the house with both the children. It is with these contentions, the report came to be lodged by the informant.

8. Learned advocate for the applicant submitted that the applicant is no way concerned with the allegations made by the informant. The present applicant is residing at a different place. There are vague and baseless allegations made against the applicant, without quoting the specific role of the applicant. The date and time of allegation of abuses, beating and demand of amount of Rs.10,00,000/- for securing the job and purchase of four wheeler, is also not attributed to the present applicant. All allegations are vague and general in nature. There is a delay in lodging the report.

From the charge sheet, it appears that all the witnesses whose statements are recorded are from the parental side of the informant. The said statements of the witnesses cannot prove that the harassment and cruelty has been caused to the informant. This applicant is close relative of the husband of the informant and he has been falsely implicated in the crime without any basis. Therefore, he prayed to quash the proceedings.

9. Learned A.P.P. for respondent No.1 State and learned advocate for respondent No.2 strongly opposed the application by submitting that the applicant has treated the informant with cruelty. At the instance of the present applicant, there was demand of Rs.10,00,000/- for securing the job and purchasing of four wheeler and on account of non fulfillment of the said demand, the applicant has treated the informant with cruelty. Though the applicant is residing at different place, he used to visit the house of husband of the informant and instigate him to harass the informant. The specific role by mentioning his name is attributed to the applicant. The applicant cannot be exonerated from the criminal liability under Sections 498-A, 323, 504 and 506 r.w. 34 of the I.P.C. It is lastly prayed to reject the application.

10. It would be relevant to refer to the judgment of the Hon'ble

Supreme court in the case of **Kim Wansoo Vs. State of Uttar Pradesh & Ors.**, reported in **2025 SCC Online SC 17**, in which the Hon'ble Supreme Court, in paras 9 and 11 of the judgment, has held as under :

*“9. In **State of A.P. v. Golconda Linga Swamy**, this Court again held that where an FIR did not disclose the commission of an offence without anything being added or subtracted from the recitals thereof, the said FIR could be quashed.*

*11. In the contextual situation, it is also relevant to refer to the decision of this Court in **Mohammad Wajid and Another v. State of U.P. and Anr.**, whereunder this Court, in so far as it is relevant, 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 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 materials collected in the course of investigation.....”

11. We have perused the report and the statements of the witnesses. In so far as the present applicant is concerned, no specific incident of cruelty is stated by the informant and whatever she has alleged, the same is without quoting any date and time. There is delay in lodging the report. Prima facie, it appears that the report is lodged after thought from the parental house of the informant. Thus, the allegations of cruelty are vague and general in nature. If all these aspects are considered together, the offences punishable under Sections 498-A, 323, 504 and 506 r/w 34 of the I.P.C. are not establishing against the applicant. There is no medical evidence of injuries caused to the informant due to the alleged beating so as to establish essential ingredients of Section 323 of the I.P.C. Therefore, on such vague and general allegations, compelling the applicant to face the trial, would be an abuse of the process of the court. The case is made out for exercise of our powers under section 482 of the Cr.P.C. We are therefore, inclined to allow the application, in the interest of justice to prevent the abuse of the process of the Court. Hence, the following order:-

O R D E R

- I. The application stands partly allowed.
- II. The R.C.C. No. 75 of 2023 pending before IIInd Judicial

Magistrate, First Class, Beed, District Beed, and charge sheet No. 19 of 2023 arising out of F.I.R. No. 18 of 2023, dated 12.1.2023, 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. are quashed and set aside to the extent of applicant No.3.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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