



**IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1276 OF 2022

1. Vinayak S/o. Prakash Thosar,
Age : 32 Years, Occu. : Service,
R/o. Room No.5, New Gopika Sadan,
Rambaug, Lane No.5, Near Wani Vidyalaya
School, Kalyan West, Thane.
2. Vaishali S/o. Prakash Thosar,
Age : 52 Years, Occu. : Household,
R/o. Room No.5, New Gopika Nagar,
Rambaug, Lane No.5, Near Wani Vidyalaya
School, Kalyan West, Thane.
3. Nisha W/o. Kuldeep Nikam,
Age : 49 Years, Occu. : Household,
R/o. Gopika Sadan, Rambaug, Lane No.5,
Near Wani Vidyalaya School, Kalyan West,
Thane.
4. Sonali W/o. Rajesh Zinjurde,
Age : 33 Years, Occu. : Household,
R/o. A 21, Megapolis Sparklet,
Near TCS Company, Hinjewadi Phase-3,
Pune.
5. Sheela W/o. Chintaman Surwade,
Age : 69 Years, Occu. : Household,
R/o. C-1, Ram Darshan Apartment,
Waldhuni, Kalyan East,
Kalyan, Thane.
6. Rajesh @ Raju S/o. Chintaman Surwade,
Age : 47 Years, Occu. : Business,
R/o. Rama Pavshe Chawl, Khalcha Pada,
Near Jai Bai School, Katemanivli,
Kalyan East, Kalyan, Thane.

7. Ganesh S/o. Chintaman Surwade,
Age : 41 Years, Occu. : Business,
R/o. Rama Pavshe Chawl, Khalcha Pada,
Near Jai Bai School, Katemanivli,
Kalyan East, Kalyan, Thane.

.... Applicants

VERSUS

1. The State of Maharashtra
Through Police Inspector,
Yawal Police Station,
Tq. Yawal, Dist. Jalgaon.
2. Vaishali W/o. Vinayak Thosar,
Age : 27 Years, Occu. : Household,
R/o. Kalyan West, New Gopika Sadan,
Second Floor, Room No.5.
At present R/o. Kolwad,
Tq. Yawal, Dist. Jalgaon.

.... Respondents

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Advocate for Applicants : Mr. M.L. Wankhade
APP for Respondent No.1-State : Mr. V.K. Kotecha
Advocate for Respondent No.2 : Ms. R.L. Jakhade (Appointed)

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

Dated : 06th 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 for quashing the First Information Report (hereinafter referred to as “the F.I.R.”) and charge-sheet in R.C.C. No.60 of 2022, under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “the Cr.P.C.”), pending before the learned Judicial Magistrate First Class, Yawal, Dist. Jalgaon, arising out of Crime bearing No.0470 of 2020, registered with Yawal Police Station, Dist. Jalgaon, dated 14.12.2020, for the offences punishable under Sections 498-A, 323, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 (hereinafter referred to as “the I.P.C.”).

3. Learned Advocate for the applicants pointed out the report dated 14.12.2020, in which respondent No.2/informant averred that applicant No.1 is her husband, applicant No.2 is her mother-in-law, applicant No.3 is her aunt-in-law, applicant No.4 is her sister-in-law, applicant No.5 is her grandmother-in-law and applicant Nos.6 and 7 are maternal uncle of her husband.

4. The informant further averred in her report that she married with applicant No.1 on 21.05.2019. Applicant No.1 was working at a call center at Kalyan. Applicant No.2 is a teacher in Sushila Sinha School, Ambernath. Her matrimonial life was happy for

two months. After the marriage, she could not maintain her health because of rainy atmosphere. That time, applicant No.2 insisted applicant No.1 to draw Rs.20,000/- from a finance institution viz. Swati. Applicant No.1 accordingly got Rs.20,000/- from that institution. However, that amount was not utilized for her. They used that amount for their own purpose. Thereafter, applicant Nos.1 to 3 frequently teased her. They said to her that her mother did not pay a dowry, demand Rs.2 Lakhs, to secure private job, etc. Applicant No.4 was residing at Pune. However, she used to come at Kalyan, Dist. Thane. She harassed her by saying that her mother did not pay a dowry in the marriage. She was insisting her to join the job. She requested her to search job for her. She used to talk her in filthy language.

5. The informant further averred in her report that applicant Nos.5 to 7 were residing at Kalyan and they also used to come to her house and said to her that her mother did not pay a dowry, if her mother not having money, then mutate the agricultural land in the name of applicant No.1. She opposed it. They were harassing her by saying that if she is not fulfilling their demand, they will not allow her to cohabit properly. Applicant No.2 said to applicant No.1 that demand Rs.2 lakhs from her mother, if she did

not provide that amount, don't cohabit with her and sent her to her parents home.

6. The informant further averred in her report that, applicant No.2 used to say to applicant No.1 that his wife's conduct is not good, if she did not provide the money, then they will defame her in society. When she opposed them, that time, applicant Nos.1 and 2 forcefully pressed her mouth. Therefore, she was suffocated. Thereafter, they tried to call the ambulance for her treatment. After that, they changed their plan and cancelled the ambulance. She made a phone call to Dr. Farhan Chaudhary and informed that her husband and mother-in-law are trying to admit her in corona isolated room. That time, Dr. Farhan Chaudhary said that he also felt they would behave like that.

7. The informant further averred in her report that, on 11.05.2020, applicant Nos.1 to 3 drove her out of the house. She made a phone to her maternal uncle viz. Samadhan Bawiskar. He came there and took her to his house. She resided at his house for two months. Thereafter, he took her to the house of applicants, but as the applicants had changed their residence, she returned with her maternal uncle. After two days, he sent her to his parents house at

Kolwad, by railway. Thereafter, she lodged the report against the applicants that they treated her with cruelty.

8. Learned Advocate for the applicants submitted that the applicants are falsely implicated in the crime. General and vague allegations are made against the 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. The essential ingredients of offences punishable under Sections 498-A, 323, 504 and 506 of the I.P.C. are not established against the 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 that the application may kindly be allowed.

9. Learned APP for the State and learned Advocate for respondent No.2 strongly opposed the application and submitted that there is strong evidence of cruelty against the applicants. Their names are mentioned in the F.I.R. The applicants treated the informant with cruelty by demanding an amount of Rs.2 Lakhs and caused her physical and mental cruelty. They compelled her to reside at her parents house. It is lastly prayed to reject the application.

10. In the context of this case, it would be relevant to refer the following authorities :

i) ***Mohammad Wajid and Another Vs. State of U.P. and Another, reported in 2023 SCC Online SC 951; 2023 INSC 683,*** wherein the Hon'ble Supreme Court has laid down the law as follows :-

“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....”

ii) ***CBI Vs. Aryan Singh, reported in 2023 SCC Online SC 379,*** in which the Hon'ble Supreme Court has held as follows :-

“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 of Cr.P.C., the Court is not required to conduct the mini trial.”

iii) **Kim Wansoo Vs. State of Uttar Pradesh & Ors., reported in 2025 SCC Online SC 17**, wherein the Hon’ble Supreme Court, in para.9 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. We have perused the charge-sheet, particularly the report and statements of witnesses. It appears that general and vague allegations are made against applicant Nos.1 to 3. Admittedly, applicant No.4 is residing at Pune. Though the allegations of harassment are made against her, it is not clarified as to exactly when she came at Kalyan, Dist. Thane and harassed the informant. It is alleged that applicant Nos.5 to 7 were saying to the informant about recording the name of applicant No.1 to the property of her mother. This incident is not specifically stated as to when that occurred further, which was that property is not clarified.

12. It is further alleged that the applicants tried to press her mouth and that time, the informant made a phone call to Dr. Farhan

Chaudhary. His statement is not recorded to support the version of the informant. Further, there is no medical evidence of injury caused by the alleged assault of throttling to the informant. The essential ingredients of Section 323 of the IPC are not established against the applicants.

13. 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 caused that drives the woman to commit suicide or to cause grave injury or danger to her life, limb or mental or physical health. There is no such material on record to show the alleged overt act of the applicants to establish the essential ingredients of Section 498-A of the IPC. If all these aspects are considered together, the alleged story of demand of Rs.2 Lakhs is not probable and not believable from face value of the report and the statements of witnesses.

14. It is not the case of the informant that the applicants voluntarily caused injury to the informant. There is no material to show that the applicants intentionally insulted her with intent to provoke breach of peace and caused criminal intimidation to the informant. The essential ingredients of Sections 504 and 506 of the IPC are not established against them.

15. Considering the facts of the case, law laid down in the authorities and reasons, 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 the applicants. The application deserves to be allowed. Hence, the following order.

ORDER

- I) The application is allowed.
- II) The First Information Report and charge-sheet in R.C.C. No.60 of 2022, pending before the learned Judicial Magistrate First Class, Yawal, Dist. Jalgaon, arising out of Crime bearing No.0470 of 2020, registered with Yawal Police Station, Dist. Jalgaon, dated 14.12.2020, for the offences punishable under Sections 498-A, 323, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 stands quashed against the applicants.
- III) Fees of the learned Advocate appointed is quantified at Rs.7,000/- (Rupees Seven Thousand Only), to be paid by the High Court Legal Services Sub-Committee, Aurangabad.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE