



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

CRIMINAL APPLICATION NO. 1322 OF 2023

1. Ramsing S/o. Jagatsing Padvi
 2. Kausalyabai W/o. Jagatsing Padvi
 3. Durga Pradip Padvi
 4. Gayatri Dilip Padvi
- Applicants**

VERSUS

1. The State of Maharashtra
 2. Dipti Ramsing Padvi
- Respondents**

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Advocate for Applicants : Mr. V.A. Mundhe h/f Mr. S.S. Thombre
APP for Respondent No.1-State : Mr. N.R. Dayama
Advocate for Respondent No.2 : Mr. Suniket A. Kulkarni

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

Dated : 28th February 2025

ORDER [PER SANJAY DESHMUKH, J.] :-

1. This is an application for quashing the First Information Report (for short “the F.I.R.”) and charge-sheet in R.C.C. No.213 of 2024, pending before the learned Judicial Magistrate First Class, Nandurbar, arising out of Crime bearing No.51 of 2023, registered at Upanagar Police Station, Dist. Nandurbar on 28.02.2023, for the

offences under Sections 498-A, 323, 420, 504, 506, 509 read with 34 of the Indian Penal Code, 1860 (for short “the I.P.C.”).

2. After hearing both the sides, when this Court expressed disinclination to grant any relief to applicant No.1/husband, learned Advocate for the applicants sought withdrawal of the application to the extent of this applicant. Therefore, the present application is dismissed as withdrawn as against applicant No.1 and the matter is proceeded for the reliefs claimed by applicant Nos.2 to 4.

3. Learned Advocate for the applicants pointed out the report dated 28.02.2023, in which respondent No.2/informant averred that applicant No.1 is her husband, applicant No.2 is her mother-in-law and applicant Nos.3 and 4 are her sisters-in-laws.

4. The informant further averred that she married with applicant No.1 on 10.06.2008. She had begotten two daughters viz. Kalyani aged 13 years and Omakshi aged 10 years. Initially, after the marriage, she was treated well for two years, but when second daughter was born, the applicants started to harass her over petty issues. Applicant No.1/husband used to beat her. Therefore, she often went to her mother’s house and stayed there. She was hopeful that

the attitude of her husband and the applicants will change and wise counsel will prevail over her. However, change in the attitude was not noted and her harassment was increased.

5. The informant further averred that, in December 2021, she suffered from high B.P. Even though she was suffering from high B.P., her husband beaten her. Therefore, she made telephone call to her mother and called her at Singhpur, Dist. Nandurbar and went to her parental house. At that time, daughters were ready to come with her, but the applicants forcibly took them away from her custody. The applicants wouldn't let her meet the daughters. After one month, her daughters informed that their father is beating them. Therefore, she went and fetch her daughters at her parental house. Her husband was frequently giving threats and hurled in filthy words.

6. The informant further averred that she is serving in the Panchayat Samiti Office at Akkalkuva, Dist. Nandurbar. Applicant No.1/husband used to come to her office frequently and abuse her. The dispute between them was tried to be compromised for five to six times, but nobody was in a position to listen her. Therefore, the informant made a complaint to the Women Grievances Redressal Cell, but in vein. Therefore, she lodged a report against the applicants.

7. Learned Advocate for the applicants submitted that from bare reading of the report, cruelty is not establishing as contemplated by Section 498-A of I.P.C. The informant is not willing to cohabit with applicant No.1/husband and his family members. She is unnecessarily harassing the applicants as she is having employment in the Panchayat Samiti Office at Nandurbar. No specific incident is stated as to when she was treated with cruelty by the applicants. Applicant Nos.3 and 4 are married sisters-in-law and they are residing with their husbands. The omnibus and vague allegations are made against the applicants. In such facts and circumstances, if these applicants are compelled to face the trial, it would certainly be an abuse of process of court.

8. Learned Advocate for the applicants pointed out that respondent No.2/informant had filed divorce petition and application for granting custody of the daughters under Section 97 of the Code of Civil Procedure. Applicant No.1/husband also sent notice to the informant for cohabitation. He submitted that statements of the witnesses in the charge-sheet are also vague and no specific incident is stated by these witnesses.

9. Learned APP for the State strongly opposed the application and submitted that the applicants are involved in the

serious crime. They have treated the informant with cruelty. The informant is having two daughters which shows that she cohabited with applicant No.1/husband for considerable period in spite of facing cruel treatment given by the applicants. He further submitted that names of the applicants are mentioned in the F.I.R. In furtherance of their common intention, the applicants have treated the informant with cruelty by frequently harassing her. Hence, he prayed for rejection of the application.

10. Learned Advocate Mr. S.A. Kulkarni, for respondent No.2/informant submitted that the applicants are involved in the serious crime. They have frequently harassed the informant and beat her. They have even forcibly took the daughters. Therefore, the informant was compelled to file the legal proceeding for the custody of her daughters. Considering the serious allegations of mental and physical cruelty subjected to the informant, it is lastly prayed to reject the application.

11. In the contextual situation, it is also relevant to refer to the decision of the Hon'ble Supreme Court in ***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 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....”

12. We have perused the report and charge-sheet. Respondent No.2/informant has stated that applicant No.1/husband was frequently beating and abusing her. General allegations are made that all the applicants were treating the informant with cruelty and used to beat her. However, no specific incident with specific period is stated as to when the informant was treated with cruelty by the applicants. The applicants' role is not specific and the allegations are of general nature that they treated the informant with cruelty.

13. To constitute the offence of cruelty, the essential ingredients of Section 498-A of the I.P.C. against these applicants are not appearing either in the report or the statements of witnesses.

Omnibus allegations are made against these applicants and therefore, the same are not sufficient to establish the cruelty as contemplated by Section 498-A of the I.P.C. There is no injury certificate in support of the informant's case that she was beaten and she sustained injury to invoke Section 323 of the I.P.C. against the applicants. Considering all these aspects, particularly the documentary evidence as discussed above, there is no such evidence against the applicants to constitute the offence for which they are prosecuted.

14. In case of **Kim Wansoo Vs. State of Uttar Pradesh & Ors., reported in 2025 SCC Online SC 17**, 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.*

15. Considering above reasons and the ratio laid down in the case of **Mohammad Wajid** (Supra) and **Kim Wansoo** (Supra), we are, therefore, inclined to allow the application by exercising our inherent powers under Section 482 of the Cr.P.C., for quashing the report and charge-sheet against applicant Nos.2 to 4. The application deserves to be allowed. Hence, the following order.

ORDER

- I) The application is dismissed as withdrawn as against applicant No.1.
- II) The application stands allowed to the extent of applicant Nos.2 to 4.
- III) The First Information Report and charge-sheet in R.C.C. No.213 of 2024, pending before the learned Judicial Magistrate First Class, Nandurbar, arising out of Crime bearing No.51 of 2023, registered at Upanagar Police Station, Dist. Nandurbar on 28.02.2023, for the offences under Sections 498-A, 323, 420, 504, 506, 509 read with 34 of the Indian Penal Code, 1860, stands quashed and set aside as against applicant No.2 Kausalyabai W/o. Jagatsing Padvi, No.3 Durga Pradip Padvi and No.4 Gayatri Dilip Padvi.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE