



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

36 CRIMINAL APPLICATION NO. 1548 OF 2024

- 01 Subhadra W/o Dajiram Gaikwad
Age: 77 yrs. Occu. Household
(Mother-in-law)
- 02 Anil S/o. Dajiram Gaikwad
Age: 56 yrs. Occu. Agri.
(Brother-in-law)
- 03 Sanjiv S/o. Dajiram Gaikwad
Age: 52 yrs. Occu. Service
(Brother-in-law)
- 04 Vaishali W/o. Sanjiv Gaikwad
Age: 46 yrs. Occu. Household
(wife of Brother-in-law)
- 05 Pushpa @ Rohini W/o. Bhausahab Sarwade
Age: 45 yrs. Occu. Household
(Sister in law)
- 06 Priyanka D/o. Bhausahab Sarwade (Nice)
Age: 30 yrs. Occu. Household
All R/o: Pushpak Niwas,
Pashankar Bagh, Lonikalbhor,
Ta. Haveli, Dist. Pune.

... Applicants

Versus

- 01 The State of Maharashtra
Through Police Inspector
Shivaji Nagar Police Station,
Tal and Dist. Beed.
- 02 Anjali W/o Sunil Gaikwad
Age: 32 yrs, occu. Household
R/o. Mahatma Phulenagar,
Opposite Varad Pride Dhanora Road,
Dist. Beed.

... Respondents
(Resp. No.2 org. informant)

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Mr. Rakesh C. Bramhankar, Advocate for Applicants.

Mr. G. A. Kulkarni, APP for Respondent No.1 / State.

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

DATE : 10th March, 2025.

Per Court:

. Present application has been filed under Section 482 of the Code of Criminal Procedure for quashment of the proceedings in R.C.C. No.4 of 2017, pending before the learned Judicial Magistrate First Class, Beed, arising out of FIR vide C.R. No.616 of 2016, dated 29th August, 2016, registered with Shivajinagar Police Station, District Beed, for the offence punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code.

2 Heard the learned counsel for the applicants and the learned APP for respondent No.1 / State. Though respondent No.2 is served, she has failed to appear.

3 Perusal of the FIR and the contents of the charge-sheet would show that what is not in dispute is that respondent No.2 had got married on 18th November, 2007 with one Sunil Gaikwad, who is the

son of applicant No.1, brother of applicant Nos.2, 3 and 5. Applicant No.4 is the wife of applicant No.3 and applicant No.6 is the daughter of applicant No.5. The husband of respondent No.2 expired on 21st April, 2021 i.e. during pendency of the case because the charge-sheet came to be filed on 30th December, 2016. Thus, the proceedings stood abetted as against him. Further, both the learned Advocates are pointing out that the application under Section 239 of the Cr.P.C. was filed by accused Nos.2 to 7 i.e. present applicants for discharge before the learned Judicial Magistrate First Class, Beed. However, it came to be rejected on 22nd June, 2023. Even though the said application has been rejected, it will not bar this Court to exercise its powers under Section 482 of the Cr.P.C., if the circumstances are shown.

4 Perusal of the FIR would show that respondent No.2 has contended that after the marriage she went to reside at the matrimonial place. She has not explained as to why the married sister-in-law was residing with her parents. But still when even applicant Nos.5 and 6 have given their address as same that of applicant Nos.1 to 4, we accept that they were residing with applicant Nos.1 to 4. The informant says that she was treated properly for about six months and then directly she says that she has son aged 8 years on the date of FIR and her husband used to then say that she should bring an amount of Rs.5,00,000/- for construction of new house from her mother.

Therefore, it is not clear since when the alleged demand was started and then she uses the word “mental and physical harassment” was given with no details at all. As regards the present applicants are concerned, it is stated that they used to take the side of her husband and used to tell that why she is not bringing amount of Rs.5,00,000/- as demanded by the husband and then they used to assault her by kicks and fists and used to keep her starving. Once again, it will have to be considered that FIR does not clarify since when the said harassment was given. She then states that she was driven out of the house by all the accused persons on the ground that she should bring amount of Rs.5,00,000/- from her mother on 19th October, 2009. She then states that she had told the said fact to her mother and thereafter, her mother raised an amount of Rs.3,00,000/- from her relatives and gave it to the informant and asked her to go for cohabitation. Accordingly, the informant went to the matrimonial home and thereafter, the accused persons started saying that why she has brought only Rs.3,00,000/- but she should bring the remaining amount of Rs.2,00,000/- and till she should not return and then within 2-3 days by harassing her, she was driven out of the house. She then states that from 2009 to 2013, she resided with her mother. Thereafter, she shifted to Pune and started residing in a rented room and admitted her son to the school. They were the only two persons residing together in Pune. Then she says that she had given a complaint application on 5th

May, 2016 with the Women Redressal Forum, Beed, as she was brought by her mother to Beed on 1st May, 2016. Thus, it is to be noted that since 2009 till filing of the FIR, no cause of action arose for lodging the FIR. For the offence under Section 498-A of the IPC, the period of limitation is three years, because we will have to read Section 498-A of the IPC together with Section 468 of the Cr.P.C. As per Section 468 (2)(c) of the Cr.P.C., the limitation for taking cognizance of the offence would be three years. Here, the cause of action taking into consideration the contents of the FIR as it is, was three years after 2009. Here, we would like to rely on the decision of this Court in the case of ***Musin Babulal Thengade and others Vs. The State of Maharashtra and another*** (Criminal Application No.887 of 2023) decided by this Court on 29th January, 2025, to which one of us (Smt. Vibha Kankanwadi, J.) was a Member. After taking note of the decisions in ***Arun Vyas Vs. Anita Vyas***, reported in, ***(1999) Criminal Law Journal 3479***, ***Ramesh and others Vs. State of Tamil Nadu***, reported in, ***(2005) AIR SCW 1319***, ***Rupali Devi Vs. State of Uttar Pradesh***, reported in, ***AIR OnLine (2019) SC 394***, ***Onkar Radha Manohari (Smt) Vs. Venka Venkata Reddy***, reported in, ***1993 AIR SCW 3595*** and also taking note of the provisions of Sections 468, 472 and 473 of the Cr.P.C., it has been observed in paragraph No.14 as under:-

“14. In the light of above, we are of the opinion that limitation for offence punishable under Section 498-A of the IPC shall commence from the last act of cruelty. Offence under Section 498-A of the IPC is a continuing offence implies that each act of cruelty would offer new starting point of limitation. Limitation for prosecution under Section 498-A does not continue for indefinite period. Such interpretation will render Section 468 of the Cr. P.C. nugatory or otiose for the purpose of Section 498-A of the Indian Penal Code which does not appear to be the intention of legislature. Had there been intention to exclude Section 498-A of the IPC from the sweep of Section 468 of the Cr. P.C express provision could have been made for the said purpose.”

5 Filing of the application with the Women Redressal Forum on 5th May, 2016 cannot revive the period of limitation.

6 Here, in this case i.e. R.C.C. No.4 of 2017, definitely the concerned Magistrate has taken cognizance of the matter, though the same was barred and no reason was assigned for extension of limitation for taking cognizance of an offence, which was committed prior to 2009 till 2009, as per the contents of the FIR and therefore, it would be an abuse of the process of law to ask the applicants to face the trial. Therefore, this is a fit case where we should exercise our

powers under Section 482 of the Cr.P.C.. With these observations, we proceed to pass the following order:-

ORDER

- I. The application stands allowed.
- II. The proceedings in R.C.C. No.4 of 2017, pending before the learned Judicial Magistrate First Class, Beed, arising out of FIR vide C.R. No.616 of 2016, dated 29th August, 2016, registered with Shivajinagar Police Station, District Beed, for the offence punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code, stands quashed and set aside as against all the applicants.

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

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