



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1513 OF 2023

1. Akshay s/o Narayan Kamble
 2. Gopabai w/o Tukaram Kamble
 3. Narayan s/o Tukaram Kamble
 4. Pramila w/o Narayan Kamble
 5. Tushar Jadhav
 6. Archana w/o Tushar Jadhav
 7. Ashwini w/o Vikram Sasane
 8. Avinash s/o Narayan Kamble
(deceased)
- ...Applicants

versus

1. The State of Maharashtra
 2. Anjali w/o Avinash Kamble
- ...Respondents

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Ms. Amita D. Chate, advocate for the applicants

Mr. A.M. Phule, A.P.P. for respondent No.1

Mr. M.M. Parghane, advocate for respondent No.2

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

**DATE OF RESERVING THE : 24.02.2025
ORDER**

**DATE OF PRONOUNCING : 18.03.2025
ORDER**

ORDER (PER SANJAY A. DESHMUKH, J.):

1. By this application, filed under Section 482 of the Code of Criminal Procedure, 1973, the applicants are seeking quashment of First Information Report (for short "F.I.R.") No. 10 of 2023, registered with Nanded (Rural) police station, District Nanded, for the offences punishable under Sections 498-A, 323, 504, 506 r.w. 34 of I.P.C. as

well as the consequential criminal case bearing R.C.C. No. 1104 of 2023, pending before Judicial Magistrate First Class, Court No.3, Nanded.

2. Learned advocate for the applicants pointed out the report dated 07.01.2023, in which the informant has stated that she married with applicant No.8 Avinash (now deceased), who was son of applicant Nos. 3 and 4. Applicant No.1 is brother-in-law, applicant No.2 is grand mother-in-law, applicant Nos. 6 and 7 are the married sisters-in-law of the informant whereas applicant No.5 is husband of applicant No.6.

3. The informant was married on 23.04.2018. After marriage, she started residing with her husband at Pune. The applicants, initially, for a period of six months, treated her well. However, thereafter, they started to ill-treat her. Her husband used to doubt her character and beat her. When she gave birth to a baby girl at her parental home, nobody from her matrimonial home turned up there to meet her and her daughter. The in-laws used to visit Pune frequently. They and all the applicants were instigating her husband and upon the said instigation, her husband used to beat her. They used to doubt her character when she used to talk on mobile phone. Once applicant No.1 beat her by a steel bucket by doubting her

conversation on the mobile phone.

4. It is further averred in the report that when the husband of applicant No.7 Vikram Sasane was suffering from Covid-19 pandemic, for his treatment, the applicants had demanded an amount of Rs.2,00,000/- from the father of informant. The father of the informant had transferred the said amount of Rs.2,00,000/- in the account of her husband. The husband of applicant No.7 died in the month of March, 2021. In the month of April, 2021, informant's husband Avinash also suffered from Covid-19 pandemic and died on 23.5.2021, at Aurangabad. The incident of death of informant's husband was not informed to her. When she came to know about it, after 15 days, she came to Wadgaon Kolhati, Waluj, district Aurangabad, at that time, all the applicants scolded her by saying that she did not attend the funeral of her husband, and now for what she has come there. She was expelled from the house on 18.11.2022 alongwith some home appliances. She therefore, returned to her parental home. Thereafter, the informant had filed a complaint with Women Grievance Redressal Cell, at Nanded against the applicants for compromise. On 18.12.2022, instead of remaining present at the Women Grievance Redressal Cell, applicant no. 1, 2, 3 and 5 visited the house of parents of informant at Ravinagar, Nanded. At that time, applicant nos. 1, 2, 3 and 5 threatened her as

to why she made an application to the Women Grievance Redressal Cell. They abused and threatened to kill her. Therefore, she lodged the report on 07.01.2023 against these applicants.

5. Ms. Chate, learned advocate for the applicants submitted that the applicants are falsely implicated in this crime. They have not treated the informant with cruelty. The informant is residing with her parents. Her husband had also made a complaint to the police in which he had made allegations against the informant and her brother. Learned advocate for the applicants further pointed out the statements of witnesses and submitted that vague allegations are made against the applicants. The essential ingredients of Sections 498-A, 323, 504, 506 r.w. 34 of I.P.C. are not establishing from the report and the charge sheet. She submitted that if the applicants are compelled to face the trial, they would certainly suffer and it would be an abuse of process of the Court. It is lastly prayed to allow the application by exercising inherent powers under Section 482 of Cr.P.C. in the interest of justice.

6. Learned A.P.P. for respondent No.1-State submitted that the names of the applicants are specifically mentioned in the report. They, in furtherance of their common intention, treated the informant with cruelty. They have harassed her by demanding an amount of

Rs.2,00,000/-. Applicant No.1 has beaten her by a steel bucket. The informant was expelled from the house alongwith the home appliances. On account of doubting about her character, the applicants threatened to kill her. It is lastly prayed to reject the application.

7. Learned advocate for respondent No.2 informant submitted that the informant was treated with cruelty by demanding an amount of Rs.2,00,000/-. Applicant Nos. 3 and 4 are in-laws who have doubted her character when she used to talk on mobile. Though the demand of Rs.2,00,000/- required for treatment of illness of husband of applicant No.7 was fulfilled by the father, her ill-treatment was continued. The applicants' role is spelled out from the report and the statements of witnesses. It is lastly prayed to reject the application.

8. We have perused the report and the charge sheet.

9. Here, it would be relevant to refer to the decision of the Honourable Supreme Court in ***Mohammad Wajid and Another Vs. State of U.P. and Another***, reported in, ***2023 SCC Online SC 951; 2023 INSC 683***, whereunder the Honourable 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....”

10. A reference can be made to the judgment in the case of **CBI vs. Aryan Singh**, reported in, **2023 SCC Online SC 379**, in which the Honourable Supreme Court held that as under:-

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

11. The first allegation of the informant is that after she gave birth to a baby girl, nobody turned up to visit her. Whenever she stays at her matrimonial home and used to make phone calls to her parents, all the applicants used to doubt about her character. They used to snatch the mobile hand set from her hands. Applicant No.1

once assaulted her by a steel bucket. The amount of Rs.2,00,000/- was demanded by the applicants for treatment of husband of applicant No.7 and the same was deposited by the father of the informant in the account of her husband. The next allegation is that her home appliances were thrown out, out of the house and she was also expelled from the house. The statements of relatives of the informant are in consonance with the allegations made in the report. The father of the informant is retired police official. The allegations in the report and the statements of witnesses are of general nature except the allegations against applicant No.1, who alleged to have assaulted with a steel bucket. To support that incident of assault by bucket, no evidence of the medical treatment is produced on record. Though, as stated by the informant, the demand of amount of Rs.2,00,000/- was fulfilled by the father of the informant by depositing it in the account of husband of the informant, her husband is no more and there is no documentary evidence produced on record in the charge sheet to support the said allegation.

12. As far as the allegation about doubting her character is concerned, no specific incident is stated as to when the applicants doubted her character. Though in the report, at the conclusion, it is alleged that an amount of Rs.2,00,000/- were demanded and for that purpose she was abused and slapped, no report was immediately

lodged against the applicants in respect of that incident. It appears that omnibus allegations are made against the applicants. Applicant Nos. 5 to 7 are residing separately and there is no evidence as to when they went to Pune and treated the informant with cruelty and harassed her. Applicant No.2 is 80 years old lady, who is grand mother-in-law of the informant. Her role is also not stated in the report or the charge sheet as to how and when she abused and harassed the informant. Applicant Nos. 1 to 3 though alleged to have doubted her character, there is no specific incident to rely upon the allegation of cruelty on account of doubting her character.

13. From the above discussion, it appears that the essential ingredients of sections 498-A, 323, 504, 506 r.w. 34 of I.P.C. are not establishing either from the report or the statements of the witnesses. The delay caused in lodging the report is one more reasonable doubtful circumstance to disbelieve the informant and witnesses. In such circumstances, if the applicants are compelled to face the trial, it would certainly be an abuse of process of the court. Therefore, we are inclined to exercise our inherent powers under Section 482 of Cr.P.C. in the interest of justice to prevent abuse of the process of the court for quashing of the report and the charge sheet lodged and filed against the applicants. The application deserves to be allowed. Hence, the following order:-

O R D E R

- I. The application is allowed.
- II. The F.I.R. No. 10 of 2023, registered with Nanded (Rural) police station, District Nanded, for the offences punishable under Sections 498-A, 323, 504, 506 r.w. 34 of I.P.C. as well as the consequential criminal case bearing R.C.C. No. 1104 of 2023, pending before Judicial Magistrate First Class, Court No.3, Nanded, are quashed as against the applicants.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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