



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

CRIMINAL APPLICATION NO. 1676 OF 2022

1. Gopal S/o Bhagawanram Tiwari
Age: 33 Years, Occu. Govt. Service,
R/o. Plot no. 33, Flat No.202,
Sumangal Appt., DHABA Nagpur.
2. Pushpa Bhagwanram Tiwari
Age: 78 Years, Occu. Household,
R/o. Bikaner, Rajasthan.
Near Setelight
Hospital Naya Shashar
Parekh Chowk.
3. Bhagwanram S/o Nandram Tiwari
Age: 73 Years, Occu. Pandit,
R/o. Bikaner, Rajasthan.
4. Kiran W/o Kailash Sharma
Age: 48 Years, Occu. Houshold,
R/o. Bikaner, Rajasthan.
Near Hari Ram Mandir Old Line,
Gangashaher.
5. Seema W/o Lalit Sharma
Age: 44 Years, Occu. Household,
R/o. Jodhpur, Rajasthan
Banshi Nivas First Be Road
Sardarpura.
6. Anil S/o Bhagawanram Tiwari
Age: 47 Years, Occu. Pandit,
R/o. Bikaner, Rajasthan.

... Applicants

Versus

1. The State of Maharashtra,
Through Police Inspector,
Shivaji Nagar Police Station,
Latur, Dist. Latur.
2. Apurva W/o Gopal Tiwari
Age: 33 Years, occu. Household
R/o near Dr. Lahane Hospital,
Savewadi, Latur.

... Respondents

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Mr. Kalyan V. Patil, h/f Mr. Sudhir R. Barlinge, Advocate for Applicants.

Mr. N. R. Dayama, APP for Respondent No.1.

Mr. S. A. Patel, h/f Ms. Poonam V. Bodke Patil, Adv. for Respondent No.2.

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

DATE : 03rd April, 2025.

ORDER: (Per Sanjay A. Deshmukh, J.)

1 Heard the learned advocates for the respective parties.

2 This is an application under Section 482 of the Code of Criminal Procedure, 1973 (for short "the Cr.P.C.") for quashing of the report bearing C.R. No.496 of 2021, registered with Shivaji Nagar Police Station, District Latur, for the offences punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code and the consequential Charge-Sheet bearing No.91 of 2022 and R.C.C. No.462 of 2022, pending in the Court of learned Chief Judicial Magistrate, Latur.

3 When this Court expressed disinclination to grant relief of quashing of the report and the proceedings to applicant No.1, the learned counsel for the applicants, on instructions, seeks leave to withdraw the application of applicant No.1. Leave granted.

4 Applicant Nos.2 and 3 are the in-laws of the informant / respondent No.2. Applicant Nos.4 and 5 are the sisters-in-law and applicant No.6 is the brother-in-law of the informant.

5 The informant averred in the report that her marriage was solemnized on 5th December, 2012 as per Hindu rites and customs in Bikaner (Rajasthan) with the son of applicant Nos.2 and 3. Her husband was employed as a Scientist at the National Bureau of Soil Survey and Land Use Planning, ICAR, Amravati Road, Nagpur. In her marriage, her parents fulfilled all traditional requirements and gave Rs1,00,000/-, 9 tolas gold ornaments, one platinum ring, one silver coconut, one silver biscuit, a Titan wristwatch, laptop, mobile phone etc. applicant No.2 was given a one tola gold *Mangalsutra*, a nose ring, silver anklets, toe rings, Lehenga-choli set, and five sarees of Rs.5,000/- each. Applicant No.3 was given a 1/2 tola gold ring etc. Applicant Nos.4 and 5 (sisters-in-law of informant) and co-sister-in-law Suman Anil Tiwari each were given half-tola gold rings, silver anklets and toe rings etc. Applicant No.6 was given a half-tola gold ring etc.

Some articles were given as gift to other relatives of husband of informant viz, Kailash Sharma and Lalit Sharma. Their children were also gifted with 5 gm silver coins and traditional clothing. The informant was also given a 10-tola gold necklace and earrings, 2 tola gold bindis, a 3-tola *Mangalsutra*, two 2-tola rings, 2 tola earrings, 1 tola nose ring, 9 tola gold bangles, and 1.5 kg silver utensils, as well as two sets of silver anklets, toe rings, and a silver waist chain etc.

6 It is averred by the informant in her report that after marriage, the informant went for cohabitation at Bikaner. From the very next day, her husband and his family members started to harass the informant claiming that their expectations were not fulfilled as per her father's status. Her mother-in-law applicant No.2 took all the gold and silver ornaments given to the informant and never returned it to her. The informant was sent to her parental home in Latur as per the post-marriage custom of "*Mul Mahina*", and her in-laws told her not to return unless she fulfills their various demands. When she returned to Bikaner, her husband had gone to Banaras for studies. The applicants started to treat her with cruelty as their demands were not fulfilled. Applicant No.2 compelled her to do all the house chores and served her spoiled food. When she opposed, she was insulted by her elder brother-in-law (applicant No.6). Applicant No.4 used to visit the home and abuse the informant as well as taunting her for bringing insufficient

money at the time of marriage from her matrimonial home. Applicant No.5 used to instigate the other applicants by making phone calls and by visiting at Bikaner. She too abused and beaten the informant for not bringing gifts and money. One day, when the informant objected to their such ill-treatment, applicant Nos.2, 3, 5 and 6 beaten her with kicks and fist blows.

7 It is also averred by the informant that in the year 2013, when the informant's cousin was getting married, her parents visited Bikaner. During their stay, applicant Nos.2, 3, and other applicants started quarrel with them over not giving of gifts. The informant and her parents tried to convince them but applicant No.2 dragged the informant out of the house and pushed her down the stairs, she sustained serious injuries to her hand. When that incident was informed to her husband, he took side of his family and told them to expel the informant out of the house. Accordingly, the informant was expelled out of the house and told her to return only if she brings Rs.5,00,000/- for purchasing a four-wheeler. Therefore, the informant came back to her parents' house. After some days, her husband came at Latur and emotionally persuaded her to return, stating that he is going to live separately at Bikaner and promising that nobody would trouble her and cited reason that his mother's surgery as an excuse. The informant was thus, convinced and taken back for cohabitation.

Thereafter, the harassment resumed for money for purchasing a car after her mother-in-law's recovered from that illness. The informant's father arranged for the couple to live separately in Banaras. They started to reside jointly but during their stay, the informant was conceived. Later, the husband of the informant sent the informant to her parents at Latur for delivery. During her pregnancy, her husband was under training in Hyderabad. He started to avoid the informant. He behaved with the informant improperly and developed illicit relationship with one woman. Therefore, the health of the informant was deteriorated. The informant gave birth to a son Rudraksha. When her husband came to visit her at Latur, the informant found romantic messages sent by that woman on his mobile phone. At that point of time, when she questioned him, he again raised the demand for Rs.5,00,000/- from her parents for purchasing a car. Applicant Nos.2 and 3 also demanded money to the informant and threatened her that they would not allow her to cohabit. Later, her husband was transferred to Nagpur as a Junior Scientist. The informant and her husband started to live there in a rented flat. However, all the applicants were instigating her husband and on their instigation, her husband used to harass her. That time, her husband abused and beaten her. He used to say that many girls liked him and he can easily remarry. Her husband frequently sent her back to her parental home. During one such visit, the informant came to know from the

neighbourers that her husband was bringing other women to the flat. Thereafter, her husband decided to purchase a new flat in the outskirts of Nagpur. She was compelled to ask her father for money to buy it. Her husband also made her father to spend Rs.3,00,000/- for furniture and its fittings in that flat. Thereafter, applicant Nos.2 and 3 came at Nagpur and resumed pressurizing the informant to bring Rs.5,00,000/- for purchasing car. They thrown ash of magic on her and mixed magic ash in her food. Her husband also used to physically assault her at mid-night. The informant was thinking that her matrimonial life will spoil. Therefore, after considering the future of her son, the informant was bearing that quarrel keeping in mind that after some time wise counsel would prevail on her husband and the applicants.

8 It is also averred that in the month of November 2019, it became very difficult for the informant to stay with her husband and the applicants because of demand of money for four-wheeler and abuse and beating to her on that count. Therefore, the informant told that fact to her parents. Since they were in Rajasthan, her brother Jay came to Nagpur. At that time, the husband of the informant took quarrel with Jay and the informant. The informant, her son and her brother Jay were expelled from the house with warning that unless she brings Rs.5,00,000/- for purchasing a car she will not be allowed to cohabit. Thereafter, the informant's husband came to Latur for soil testing.

That time also, he demanded money for purchasing a car and beaten her. He refused to take her back to Nagpur for cohabitation. Since then, none of the applicants have attempted to bring her back or communicate positively. Instead, they continued pressurizing her and her family for money.

9 The informant further averred that after the birth of her son Rudraksha, she was residing in a new flat at Nagpur. The informant became pregnant again. At that time, her husband took her to a doctor under the pretext of a routine check-up. However, without her knowledge, he spoke to the doctor privately and made her to consume pills. As a result, she suffered by a miscarriage the next day after returning home. The informant experienced severe physical and emotional pains. However, her husband did not take her proper care.

10 The informant averred that in the month of November 2019, she was expelled from the house alongwith her son and brother Jay, she returned to Latur. A few days later, when her husband came to Latur for soil testing, he stayed at her father's flat. One day in December, while her parents and brother Jay had gone to a construction site with Rudraksha, her husband returned home. The informant served him tea in the bedroom, he again demanded money for purchasing the car. When she replied that her father is not able to

provide car, he got angry, abused and slapped her and started to beat her by kick and fist blows. The informant made hue and cry. Hearing her cries, her father, brother Jay, and a labourer named Om Shendge, who worked at the construction site, came there. Upon hearing the knocking on the door, her husband stopped beating her. She opened the door while crying. Her father asked her husband why he was behaving this way. The husband of the informant replied, *"Then give Rs.5,00,000/- for purchasing a car"*. They tried to convince her husband. On that night, her husband alone went to Nagpur, leaving the informant and her son Rudraksha there.

11 On 27th May, 2021, at about 06:00 pm, while the informant was returning home after visiting the Mahadev Mandir near Nananani Park, her husband suddenly appeared in front of her. She was shocked to see him. He immediately asked her as to what happened about that money for purchasing a car and the house. He then threatened that if she did not agree to a divorce, he would kill her. The informant tried to convince him and told him they would go home and talk, but he did not pay heed to her. Instead, he abused her and repeated his demand of money and threats. When some nearby people began to notice the situation, he went away. That sudden incident made the informant to cry on a road. At that time, one of her father's acquaintances Mr. Umesh Kale, who was standing nearby,

came to her. He requested her not to cry and inquired as to what had happened. The informant told him that the person was her husband, who was harassing her for Rs.5,00,000/- for purchasing a car, for a floor of her father's house, and also wanted a divorce because of his illicit relationship with another woman. Thereafter, she came to the house. She told that incident to her parents. Her father took search of her husband, but he was not found. Thereafter, she lodged the report on 17th December, 2021 against the applicants for treatment her with cruelty.

12 The learned counsel for the applicants submitted that the applicants are falsely implicated in the crime. The informant is not willing to cohabit with her husband. False allegations of demand of Rs.5,00,000/- for purchasing a car are made. The witnesses have given false statements in support of the informant. He submitted that a litigation bearing Criminal M.A. No.183 of 2021 between the informant and her husband under the provisions of the Protection of Women from Domestic Violence Act, 2005 is filed in the Court of Latur. The husband of informant has filed reply to it. Notices were exchanged in the month of February, 2021 and March, 2022. The informant has also filed application for maintenance under Section 125 of the Cr.P.C., in which false allegations of demand and harassment are made. The learned counsel for the applicants

submitted that the essential ingredients of Sections 498-A, 323, 504 and 506 are not establishing either from the report and the statements of witnesses. There is no evidence of causing of injury, hurling of abuses and alleged cruelty against the applicants. He lastly prayed to allow the application.

13 The learned APP for the State strongly opposed the application and submitted that the applicants are involved in the serious crime. Their names are mentioned in the report. They have committed anti-social crime. They demanded money to the informant. They instigated the husband of informant to treat the informant with the cruelty. He lastly prayed to reject the application.

14 The learned counsel for the informant / respondent No.2 also strongly opposed the application and submitted that the names of the applicants are mentioned in the report. They treated informant with cruelty for bringing money and gifts. Applicant No.2 threw magic ash on the person of informant and mixed the same in her food. They assaulted the informant. They have committed the offence of cruelty as per Section 498-A of the IPC. He lastly prayed to reject the application.

15 Here, it is 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....”

16 A reference also 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.”

17 We have perused the report and the charge-sheet, particularly, the statements of witnesses. The witnesses have mostly stated all facts similar to that of the informant. The report is lodged on 17th December, 2021. Admittedly, notices were exchanged between the informant and her husband in the month of February, 2021 and March, 2022. Thereafter, the proceedings of maintenance and the application under the provisions of the Protection of Women from Domestic Violence Act was filed. The husband has also filed case for divorce against the informant. There are allegations of demand of Rs.5,00,000/- for purchasing a car against the husband. His application is already withdrawn. No specific incident is stated as to when applicant Nos.2 to 6 have demanded money for purchasing a car. The demand of money for purchasing a flat was also alleged to have been made against the husband of informant. The informant and her husband were residing at Nagpur. Applicant Nos.2 to 6 are residing in the State of Rajasthan at different places i.e. Bikaner and Jodhpur. They were not residing under one roof to harass the informant. Though there are allegations of making phone calls by the applicants to the informant, there is no evidence of call details of making phone call and instigating the husband of informant as alleged by the informant. Though there are detailed allegations of harassment against applicant Nos.2 to 6, no specific incident is stated.

Considering all these aspects, if applicant Nos.2 to 6 are directed to face the trial, it would certainly be an abuse of the process of Court. We are therefore, inclined to allow the application to the extent of applicant Nos.2 to 6 by exercising our inherent powers under Section 482 of the Cr.P.C. in the interest of justice to prevent the abuse of the process of the Court. The application, therefore, deserves to be partly allowed in favour of applicant Nos.2 to 6. Hence, the following order:-

ORDER

- I. The application of applicant No.1 stands dismissed as withdrawn.
- II. The Charge-Sheet No.91 of 2022 and R.C.C. No.462 of 2022, pending in the Court of learned Chief Judicial Magistrate, Latur, arising out of F.I.R. bearing C.R. No.496 of 2021, registered with Shivaji Nagar Police Station, District Latur, for the offences punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code, stands quashed and set aside to the extent of applicant Nos.2 to 6 only.
- III. The application stands disposed of.

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

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