



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

CRIMINAL WRIT PETITION NO. 751 OF 2023

1. Musa Akbar Shaikh, (Father-in-law)
Age:- 53 years, Occ. Labour,
R/o At. Jambhali Post- Nilajgaon,
Tq. Paithan Dist. Aurangabad.
 2. Jaheda @ Jayedabi Musa Shaikh
(Mother-in-law),
Age:- 49 years, Occ. Household,
R/o At. Jambhali Post- Nilajgaon,
Tq. Paithan Dist. Aurangabad.
 3. Isaq Musa Shaikh (Brother-in-law)
Age:-31 years, Occ. Labour,
R/o At. Jambhali Post- Nilajgaon,
Tq. Paithan Dist. Aurangabad.
 4. Shabana W/o. Jakir Sayyad,
(Sister in law)
Age:- 33 years, Occ. Household,
R/o At. Post- Ranjangaon Shenpunji,
Tq. Paithan Dist. Aurangabad.
 5. Jakir Najir Sayyad, (Husband of Appl. No.4)
Age:-36 years, Occ. Agriculturist,
R/o At. Post- Ranjangaon Shenpunji,
Tq: Paithan Dist. Aurangabad.
- ... Petitioners**

Versus

1. The State of Maharashtra,
Through the Police Officer,
Bidkin Police Station Tq- Paithan,
Dist-Aurangabad.
2. Anjum W/o. Islam Shaikh,
Age:- years, Occ. Household,

R/o At. Jambhali Post- Nilajgaon,
Tq. Paithan Dist. Aurangabad.
At Present C/o: Innus Sayyed,
R/o. Hussain Colony,
Near Pundliknagar, Aurangabad.

... Respondents

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Mr. Gautam J. Pahilwan, Advocate for Petitioners.

Mr. V. K. Kotecha, APP for respondent No.1 / State.

Mr. Shaikh Ashraf Patel, Advocate for Respondent No.2. (Absent)

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

DATE : 22nd July, 2025.

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

1 Heard the learned counsel for the petitioners and the learned APP for respondent No.1 / State.

2 The present petition has been filed for quashment of the proceedings in R.C.C. No.244 of 2023, pending in the Court of learned Chief Judicial Magistrate Paithan, District Aurangabad, arising out of FIR bearing Crime No.104 of 2023, dated 24th March, 2023, registered with Bidkin Police Station, Taluka Paithan, District Aurangabad, for the offences punishable under Sections 498-A, 323, 504, 506 read with 34 of Indian Penal Code, 1860 (for short "the IPC").

3 When this Court expressed disinclination to grant relief of quashment of the report as well as the proceedings to petitioner Nos.1 and 2, the learned counsel for the petitioners, on instructions, seeks leave to withdraw their petition. Leave granted.

4 Petitioner No.3 is the brother-in-law of the informant / respondent No.2. Petitioner No.4 is the sister-in-law of the informant. Petitioner No.5 is the husband of petitioner No.4.

5 Respondent No.2 / informant averred in the report that her marriage was solemnized with the son of petitioner Nos.1 and 2 on 24th February, 2021, as per Muslim rites and customs. After her marriage, she started to reside at her matrimonial house at Jambhali, Taluka Paithan, District Aurangabad, alongwith her husband, parents-in-law and others. Petitioner Nos.4 and 5 used to frequently visit their house. Initially she was treated well for about six months. Thereafter, without any valid reason, her husband started to harass her physically and mentally.

6 The informant further averred that on 8th August, 2021, due to a domestic issue, her parents-in-laws abused her parents in filthy language. When the informant intervened and requested them not to speak ill of her parents and instead address her directly, her

husband assaulted on her stomach by leg. He abused and slapped her and also gave her fists blows. She was starved. The informant was frightened. She called her parents to take her to her parental house. Accordingly, the next morning, her parents arrived at her matrimonial house. At that time, her husband and parents-in-law again abused the informant and her parents, and stated that they did not wish to keep her at their house and asked her to leave. They forcefully drove her and her parents out of the house. Therefore, she returned to her parental house.

7 The informant further averred that on 5th October, 2021, when she was taken back to her matrimonial house by her parents, an attempt was made to reconcile the matter with her husband and the parents-in-law. During that discussion, the informant was forced by them to bring an amount of Rs.5,00,000/- for purchasing a tractor. Her parents explained that they belonged to a poor family and were unable to arrange such a large amount. They left the informant at her matrimonial house and returned. Thereafter, the informant continued to suffer mental and physical cruelty at the hands of her husband and the parents-in-law. She was beaten and harassed frequently. On the night of 23rd March, 2023, her husband and the petitioners once again demanded Rs.5,00,000/- from the informant. When she refused, they abused her, beat her with fists and slaps, and threatened to kill her.

They declared that her husband intended to marry another woman and that the informant should not stay there any longer. Thereafter, she was driven out of the house. She contacted her parents and called them to take her back. Thereafter, she lodged the report.

8 The learned counsel for the petitioners submitted that petitioner Nos.3 to 5 are falsely implicated in the crime. There is no cogent and acceptable evidence against them. Vague and general allegations are made against him. If they are compelled to face the trial, it would be an abuse of the process of the Court. He lastly prayed to allow the petition.

9 The learned APP for the State strongly opposed the petition and submitted that petitioner Nos.3 to 5 are involved in a serious offence. Their names are mentioned in the report. They instigated the husband of the informant. They committed an anti-social crime. There is a strong evidence against them. He lastly prayed to reject the petition.

10 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....”

11 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 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.”

12 We have perused the charge-sheet, particularly, the report and the statements of witnesses. The witnesses have stated similar facts as stated by the informant in the report.

13 The husband is not a party to this petition. The petition of petitioner Nos.1 and 2 is withdrawn. So far as petitioner Nos.3 to 5 are concerned, general and vague allegations are made against them, without attributing any specific overt act. Petitioner Nos.4 and 5 are residing at Ranjangaon Shenpunji, Taluka Paithan, District Aurangabad. Petitioner Nos.3 to 5 are implicated in the crime only because they are relatives of the husband of informant. The essential ingredients of Sections 498-A, 323, 504 and 506 are not established against petitioner Nos.3 to 5. If the entire material is considered together with the reasons discussed above, then it would certainly be an abuse of the process of the Court, if petitioner Nos.3 to 5 are directed to face the trial. We are therefore, inclined to allow the petition to the extent of petitioner Nos.3 to 5, by exercising our inherent powers under Section 482 of the Cr.P.C. in the interest of justice and to prevent the abuse of the process of the Court. The petition therefore, deserves to be partly allowed. Hence, the following order:-

ORDER

- I. The criminal writ petition is partly allowed.
- II. The petition of petitioner Nos.1 and 2 stands dismissed as withdrawn.

III. The proceedings in R.C.C. No.244 of 2023, pending in the Court of learned Chief Judicial Magistrate Paithan, District Aurangabad, arising out of FIR bearing Crime No.104 of 2023, dated 24th March, 2023, registered with Bidkin Police Station, Taluka Paithan, District Aurangabad, for the offences punishable under Sections 498-A, 323, 504, 506 read with 34 of Indian Penal Code, stands quashed to the extent of petitioner Nos.3 to 5 only.

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