



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

CRIMINAL APPLICATION NO.1928 OF 2022

Baliram S/o. Yadavrao Garudkar, (Husband's Brother)
Age: 45 years, Occ.: Service,
R/o. Flat No. 303, Mathura Appartment,
Bhavsar Chowk,
Taroda (Kh.) Malaegaon road, Nanded,
Tq. & Dist. Nanded. **... Applicant**

Versus

1. The State of Maharashtra,
Through Police Station Mukramabad,
Dist. Nanded.
2. Mayuri W/o. Shrinivas Garudkar,
Age: 24 years, Occ.: Household,
R/o. Mukramabad, Tq. Mukhed,
Dist. Nanded.

... Respondents
(Resp. No.2 is Orig. Complainant)

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Mr. Suraj R. Bagal, h/f Mr. B. N. Gadegaonkar, Advocate for Applicant.

Mr. A. M. Phule, APP for Respondent No.1 / State.

Mr. M. G. Kedar, Advocate for Respondent No.2. (Appointed).

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

DATE : 28th January, 2025.

J U D G M E N T : (Per Sanjay A. Deshmukh, J.)

. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2 This is an application under Section 482 of the Code of Criminal Procedure, 1973, for quashing of the First Information Report (for short "FIR") in Crime No.123 of 2022, registered with Mukramabad Police Station, District Nanded, for the offence punishable under Sections 498A, 323, 504 and 506 read with 34 of the Indian Penal Code, 1960 (for short "IPC"), charge-sheet bearing No.149 of 2022 dated 19th July, 2022 and the proceedings of R.C.C. No.173 of 2022, pending in the Court of learned Chief Judicial Magistrate, Mukhed, Taluka Mukhed, District, Nanded.

3 The informant is the sister-in-law of the present applicant (brother's wife). She lodged the report against the applicant and others in Mukramabad Police Station, Tahsil Mukhed, District Nanded, for the offence punishable under Sections 498A, 323, 504 and 506 read with 34 of the IPC.

4 It is averred in the report that she married with the brother of the applicant namely Shrinivas on 4th May, 2016. The dowry of

Rs.50,000/- alongwith some home appliances were given at the time of marriage. Her husband was serving in the Tata Mahindra Company at Pune. The informant was residing with her in-laws at Mukhed. Her husband used to visit Mukhed from time to time. The informant gave birth to son Krushna. After that, the informant went to Pune alongwith her husband. Thereafter, she remained pregnant for second time. When she remained pregnant for the second time, she was taken to Mukhed. That time, her husband, mother-in-law, sister-in-law, present and one tenant by name Kiran Ajay Kamble treated the informant with cruelty. They said that the conduct of the informant is not good. They demanded the remaining dowry amount of Rs.50,000/-. They said that unless and until the said amount is given, they will not allow the informant to have second child. They abused her, kept her on starvation and assaulted her by kicks and fist blows.

5 The informant further averred that in the month of July, 2021, she told that fact to her parents. Her father and mother came there. They convinced the accused. That time, the in-laws of the informant told her parents that the informant is not behaving properly. They again demanded Rs.50,000/- remaining dowry amount and said that unless that is paid, they will not allow the informant to reside with them. In the presence of her parents, they assaulted the informant by

kicks and fist blows. They abused and expelled her from the house. Therefore, the informant came with her parents at their house at Mukramabad. Therefore, she lodged the report against the applicant and others.

6 The learned counsel for the applicant submitted that false report is lodged against the applicant. There are vague allegations against him. He is a teacher in Zilla Parishad school since 1998 and residing far away from Mukhed. It is lastly prayed to allow the application.

7 The learned APP as well as the learned appointed counsel for respondent No.2 strongly opposed the application and submitted that the name of the applicant is mentioned in the report. Applicant's role is specified. There is sufficient evidence against him. It is lastly prayed to reject the application.

8 Perused the report. From the report itself, it appears that there are vague allegations against the applicant that he demanded Rs.50,000/-. The last incident alleged to have taken place in the month of July, 2021. However, the report is lodged on 27th May, 2022. Thus, there is no sufficient, *prima-facie*, evidence against the

applicant to establish the alleged cruelty as contemplated under Section 498-A of IPC and alleged assault, abuses etc. In such situation, if the applicant is compelled to face the trial, it would be certainly an abuse of the process of Court. The application deserves to be allowed. Hence, the following order:-

ORDER

- I. The criminal application is allowed in terms of prayer clauses (C) and (C1).
- II. The fees of Mr. M. G. Kedar, learned appointed counsel for respondent No.2 is quantified at Rs.5,000/- and it is to be paid through the High Court Legal Services Sub-Committee, Aurangabad.
- III. Rule is made absolute in the above terms.

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

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