



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

CRIMINAL APPLICATION NO. 2016 OF 2023

1. Nilesh Kesharsingh Patil.
2. Kesharsingh Shankar Patil.
3. Beubai Kesharsingh Patil.
4. Sunita Nilesh Patil.
5. Nilesh Ramakant Patil.
6. Rupali @ Dipali Dipak Patil. **... Applicants**

Versus

1. The State of Maharashtra.
2. Rohini Nilesh Patil. **... Respondents**

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Mr. Jitendra Vijay Patil, Advocate for Applicants.

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

Mr. Vinod Prakash Patil, Advocate for Respondent No.2.

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

DATE : 13th February, 2025.

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

. 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 the FIR

bearing C.R. No.137 of 2023, dated 2nd May, 2023, registered with Dharangaon Police Station, District Jalgaon, for the offence punishable under Sections 498-A, 406, 323, 504 and 506 read with 34 of the Indian Penal Code (for short “the IPC”) and the proceedings in R.C.C. No.60 of 2023, pending in the Court of the learned Judicial Magistrate First Class, Dharangaon.

3 The application of applicant No.1 was already withdrawn on 7th July, 2023. Applicant Nos.2 and 3 are the parents-in-law and Applicant Nos.4 and 6 are the sisters-in-law of the informant. Applicant No.5 is the husband of applicant No.4.

4 It is averred in the report that the informant / respondent No.2 was married with accused No.1 as per the Hindu customs and rituals at Mouje Satkheda, Taluka Dharangaon, District Jalgaon. After marriage, the informant started to reside with her husband and the in-laws. Initially she was treated well. However, later, all the applicants started to harass her by saying that sufficient dowry was not given and other articles were also not given in the marriage, though an amount of Rs.1,00,000/- as dowry was paid alongwith one tola gold chain and two finger rings. The applicants took all her gold ornaments by convincing her, which were not returned. The husband of the informant was also instigated by the applicants. Therefore, he was

insulting her frequently. The informant was compelled to do lot of work in the house. The applicants thereafter, demanded Rs.8,00,000/-. They threatened that unless she brings that amount, they would not allow her to live there. However, her father paid Rs.20,000/- for three times. Applicants were instigating the husband of the informant to perform second marriage and to pray for divorce. The mother-in-law once harassed the informant by directing to pay the amount of repair of button of gas stove. That time, the mother-in-law abused the informant. Thereafter, her husband made phone call to her father and told him to take the informant back. Her husband also demanded Rs.8,00,000/-. Her husband said that unless that amount is paid, he will not allow the informant to stay with him. After the lock-down, the informant went to her uncle Vinayak Patil at Hanumant Kheda, Chopda in July 2020. That time, the husband of informant and applicant No.3 insulted the aunt of the informant. The informant was not allowed to cohabit with her husband for the demand of Rs.8,00,000/-. In the month of July 2020, she has been expelled from the house. Thereafter, she is residing with her parents. The amount of Rs.8,00,000/- for purchasing a plot for running tuition class was demanded and she was harassed by all the applicants. Therefore, she made application to Women's Protection Committee in Jalgaon on 3rd December, 2022, expecting the matter would be settled. However, the applicants did not remain present there. Her husband gave false statement there. The

informant tried to convince her husband through the Advocate also, but he did not respond. Therefore, she lodged the report.

5 The learned counsel for the applicants submitted that false allegations are made against the applicants. The informant had filed an application under the provisions of the Protection of Women from Domestic Violence Act, 2005 and prayed for maintenance. There are contradictory allegations made in the notice and the report by the informant. No such demand of amount of Rs.8,00,000/- was made by the applicants. Applicant Nos.4 to 6 are not residing in village Satkheda, Taluka Dharamgaon, District Jalgaon. Allegations in the report does not constitute any offence, for which the applicants are prosecuted. In such circumstances, forcing the applicants to face the trial would certainly be an abuse of the process of Court. He lastly prayed to allow the application.

6 The learned APP for the State strongly opposed the application and submitted that the applicants are involved in the serious crime. They have frequently demanded Rs.8,00,000/- for purchasing a plot for running tuition class of the husband of informant. Applicants' roles are specified in the report. Their names alongwith their overt acts are specifically stated in the report. There is strong evidence of the informant and other witnesses about the demand of

Rs.8,00,000/- against the applicants. He lastly prayed to reject the application.

7 The learned counsel for the informant / respondent No.2 also strongly opposed the application and submitted that the applicants are involved in serious crime of illegal demand of Rs.8,00,000/- for purchasing a plot for running tuition class. The names of the applications are mentioned in the report alongwith their specific roles. Merely because the case under the provisions of the Protection of Women From Domestic Violence Act is filled for maintenance etc., the report and the charge-sheet cannot be quashed. He lastly prayed to reject the application.

8 As regards the legal position is concerned, we rely upon the judgment of the Honourable Supreme Court in the case of ***Suman Mishra and others Vs. State of Uttar Pradesh and another***, reported in, ***2025 SCC OnLine SC 295***, in which it is held as under:-

“15.

9. *At this stage, we would like to observe something important. Whenever an accused comes before the court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that*

such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the court owes a duty to look into the FIR with care and a little more closely.

10. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc. then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, 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.

9 We have perused the report and the charge-sheet and the case filed by the informant against the applicants bearing PWDV Application No.91 of 2022 in the Court of learned Judicial Magistrate First Class. In the report and the statements of witnesses, the allegations of demand of Rs.8,00,000/- by all the applicants is made. Taking away ornaments of informant is another allegation. No ornament is seized by the investigating officer. In the said case, no allegations of demand of Rs.8,00,000/- are made. The said case is

filed in the year 2022 and the report is lodged on 2nd May, 2023. In the notice dated 4th October, 2022, it is alleged that the husband of the informant demanded Rs.2,00,000/-. If all these facts are considered together, then it reveals that the contradictory story of demand of Rs.8,00,000/- is hatched by the informant. No specific incident as to when the applicants demanded an amount of Rs.8,00,000/- is stated. Applicant Nos.4 to 6 were not residing jointly with the informant and her husband. Applicant Nos.4 and 5 are residents of village Taradi, Taluka Shirpur, District Dhule and applicant No.6 is resident of village Ladli, Taluka Dhargaon, District Jalgaon. The essential ingredients constituting cruelty coupled with demand or driving to commit suicide to the informant are not establishing from the report and the charge-sheet. The essential ingredients of Sections 406, 323, 504 and 506 of the IPC are not establishing from the charge-sheet. In such circumstances and on such contradictory evidence, compelling applicant Nos.2 to 6 to face the trial would certainly be an abuse of the process of the Court. We are therefore, inclined to allow the application by exercising our inherent powers under Section 482 of the Cr.P.C. in the interest of justice. The application, therefore, deserves to be partly allowed. Hence, the following order:-

ORDER

- I. The application of applicant No.1 is already dismissed

as withdrawn by order dated 7th July, 2023.

II. The FIR bearing C.R. No.137 of 2023, dated 2nd May, 2023, registered with Dharangaon Police Station, District Jalgaon, for the offence punishable under Sections 498-A, 406, 323, 504 and 506 read with 34 of the Indian Penal Code (for short “the IPC”) and the proceedings in R.C.C. No.60 of 2023, pending in the Court of the learned Judicial Magistrate First Class, Dharangaon, stand quashed to the extent of applicant Nos.2 to 6.

III. The application stands disposed of.

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

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