



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2526 OF 2024

1. Rameshwar s/o Fakirrao Kale
Age 31 years, Occ. Agri.
2. Fakirrao s/o Manikrao Kale
Age 60 years, Occ. Agri.
3. Dwarkabai w/o Fakirrao Kale
Age 52 years, Occ. Household
Applicant Nos. 1 to 3 all
R/o. Shivna, Tq. Sillod
District Aurangabad
4. Rameshwar s/o Tukaram Sapkal
Age 35 years, Occ. Private Job
5. Aasha s/o Rameshwar Sapkal
Age 35 years, Occ. Household
Applicant Nos. 4 and 5
R/o. Jalgaon (Sapkal),
Tq. Bhokardan, District Jalna
6. Kachru s/o Dadarao Sable
Age 56 years, Occ. Agri.
R/o. Plot No.24, Dhamashree
Colony, Mayur Park Harsul,
Aurangabad, Dist. Aurangabad
7. Vishnu s/o Dadarao Sabale
Age 77 years, Occ. Agri.
8. Dattu s/o Dadarao Sabale
Age 48 years, Occ. Agri.
9. Ganesh s/o Dadarao Sabale
Age 48 years, Occ. Agri.
10. Sarangdhar s/o Dadarao Sabale
Age 46 years, Occ. Agri.
Applicant Nos. 7 to 10 all
R/o. Gevrai Payga, Tq. Phulambri

District Aurangabad

11. Indubai w/o Kakasaheb Fuke
Age 60 years, Occ. Household
12. Kakasaheb s/o Sandu Fuke
Age 63 years, Occ. Agri.
13. Jitendra s/o Kakasaheb Fuke
Age 30 years, Occ. Job
14. Suresh s/o Uttamrao Fuke
Age 45 years, Occ. Agri.
15. Ankush s/o Uttamrao Fuke
Age 50 years, Occ. Agri.
16. Dilip s/o Apparao Fuke
Age 62 years, Occ. Agri.
17. Dnyaneshwar s/o Himmatrao Pawar
Age 49 years, Occ. Agri.
18. Mandabai w/o Dnyaneshwar Pawar
Age 45 years, Occ. Household
19. Ranjana d/o Dnyaneshwar Pawar
Age 21 years, Occ. Agri.

Applicant Nos. 11 to 19 all R/o.
Vazirkheda, Post. Pimpalgaon Kolte
Tq. Bhokardan, District Jalna

20. Dilip s/o Murlidhar Kale
Age 48 years, Occ. Agri.
21. Murlidhar s/o Rangnath Kale
Age 70 years, Occ. Agri.
Applicant Nos. 20 and 21
R/o. Shivna, Tq. Sillod
District Ahmednagar

...Applicants

Versus

1. The State of Maharashtra
Through Police Inspector

Wadodbazar Police Station
Tq. Phulambri, District Aurangabad

2. Pooja w/o Rameshwar Kale
Age 31 years, Occ. Household
R/o. Georai Payaga, Tq. Phulambri
District Aurangabad ...Respondents

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Mr. R.C. Brahmarkar, Advocate for the applicants
Mr. G.A. Kulkarni, A.P.P. for the respondent No.1
Mr. A.R. Ban h/f Mr. R.V. Gore, Advocate for respondent No.2.
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**CORAM : SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.
DATED : 18th AUGUST, 2025**

O R D E R (PER SANJAY A. DESHMUKH, J.) :-

1. Heard learned advocates for the respective parties.
2. This is an application filed under Section 482 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") for quashing of the First Information Report (for short "F.I.R.") vide C.R. No. 136 of 2023 registered with Wadodbazar police station, Tq. Phulambri District Aurangabad, for the offences punishable under sections 498-A, 494, 323, 504, 506 and 34 of the Indian Penal Code, 1860 (for short "I.P.C."), the charge sheet No. 193 of 2023 and the consequential criminal case bearing R.C.C. No. 54 of 2024 pending before the Judicial Magistrate, First Class, Phulambri, District Aurangabad.
3. The informant averred in the report that she married with

applicant No.1 on 6.5.2018. In her marriage, dowry of Rs.5,00,000/- and gold and silver ornaments were given. After marriage, she was treated well for two years. Thereafter, her parents-in-law i.e. applicant Nos. 2 and 3 demanded Rs.20,00,000/- for securing a job for her husband and asked her to fetch that amount from her parents. When she used to go for festivals to her parents' house, she used to tell about the same to her parents. Her parents said that they are poor and therefore, cannot pay that amount. When the informant returned to her matrimonial home alongwith her father, her parents-in-law asked her as to whether she brought the amount? At that time, her father tried to convince applicant Nos. 1 to 3, but as soon as her father left the house, applicant Nos. 1 to 3 abused her and beat her with fists and kicks blows. Thereafter, they started to harass her by saying that she was not able to cook the food properly and was not doing the house chores properly. This way the applicants were treating her with cruelty physically as well as mentally. Thereafter, the applicants threatened her that if she fails to fetch the amount of Rs.20,00,000/- they will eliminate her. Then they took the gold and silver ornaments from her person after beating her, they drove her out of the house. Thereafter, she resided with her parents. The informant further averred that on 1.6.2023, she came to know that her husband had performed second marriage, in which all the applicants participated. The informant thereafter, lodged the report

on 8.6.2023 against the applicants.

4. Learned advocate for the applicants submitted that they are falsely implicated in the crime. There is no such material against the applicants regarding performance of second marriage of applicant No.1. When the father of the informant was a witness to the incident then there is delay for lodging the report which is not explained. The role of the applicants is not specified in the report as well as in the statements of witnesses to show that they were present for performance of alleged second marriage of applicant No.1. Learned advocate for the applicants lastly prayed for allowing the application.

5. Learned A.P.P for the respondent State and learned advocate for respondent No.2 strongly opposed the application and submitted that the applicants are involved in a serious crime. The essential ingredients of section 498-A of the I.P.C. i.e. cruelty coupled with demand are establishing. The applicants participated in the performance of second marriage of applicant No.1 i.e. the husband of the informant.

6. Here, it would be relevant to refer the authority in the case of ***Disha Kapoor Vs. State of Uttar Pradesh and others***, reported in, ***2025 SCC OnLine SC 1070***, in which the Honourable Supreme

Court in paragraph No.2 held as under:-

"2. The learned Single Judge, before whom the petitioner appeared in person, quashed the proceedings initiated relying on *Preeti Gupta v. State of Jharkhand* which noted with anguish the rapidly increasing matrimonial litigations in the country roping in the close relatives of the husband and even members of the extended family, as in this case, on allegations of harassment. This requires the Courts to be doubly cautious and extremely careful in dealing with such complaints, especially since the ultimate object of justice is to find out the truth and not only to punish the guilty but also to protect the innocent. It was also emphasised that in the event of the proceedings being found to be an abuse of process of Court, then necessarily the power under Section 482, Cr.P.C. should be invoked to secure the ends of justice."

7. We have perused the charge sheet, particularly the report and the statements of witnesses. The witnesses have stated that Chakuli Dnyaneshwar Pawar is the alleged second wife of applicant No.1, who has performed his second marriage with said Chakuli at Vajirkheda. To attract the Section 494 of the I.P.C. the requisites are that there must be living husband or wife and to marry again during the lifetime of the existing husband or wife, which is void and illegal as per law.

8. Mere proving the existence of relationship of the husband and

wife is not sufficient. As per the law laid down by the Hon'ble Supreme Court in the case of ***Laxmi Devi vs. Satya Narayan (1995) 5 SCC 545***, it is necessary to prove the actual performance of the said marriage. From the statements of some of the witnesses, it is sought to be established that they were present at the time of marriage, however, they did not oppose the marriage. They also did not immediately communicate to the police that the said second marriage being performed and it must be stopped. Who was the priest to perform that marriage is also not clarified. The allegations in the F.I.R. are not sufficient to establish the performance of alleged second marriage as contemplated by Section 494 of the I.P.C. Considering all these aspects, the essential ingredients of section 494 of the I.P.C. are not establishing against the applicants.

9. There are allegations of demand of Rs.20,00,000/- against the husband and parents-in-law of the informant, but no specific incident is stated by the informant as to when these applicants demanded that amount, abused and beat her. The allegations of taking away ornaments and expelling the informant from the house is also vaguely stated by the informant. Vague and general allegations of demand are not sufficient to establish cruelty as contemplated under Section 498-A of the I.P.C. The cruelty coupled with demand as contemplated by Section 498-A of the I.P.C. is not establishing from

the report as well as the statements of witnesses. On the contrary, all these allegations are vague and general in nature. The specific role is not establishing against the applicants.

10. The essential ingredients of section 323 of the I.P.C. i.e. voluntarily causing injury are not establishing against applicants. As far as causing criminal intimidation as per Section 506 of the I.P.C. is concerned, from the report itself it appears that, there is no material to show that applicants threatened and caused injury to the informant's person, reputation or property with intention to cause alarm to her. Thus, the essential ingredients of criminal intimidation as defined under section 503 of the I.P.C. punishable under Section 506 of the I.P.C. are not establishing against applicants.

11. As far as offence under Section 506 of the I.P.C. is concerned, in our view, there is no such material to attract Section 504 of the I.P.C. as it is not established that the applicants caused alarm to the informant that the applicants intentionally insulted her to provoke and disturb the public peace.

12. Considering the above reasons, compelling the applicants to face the trial, would amount to an abuse of process of the court. The case is made out for exercise of our extraordinary powers under

section 482 of the Cr.P.C. We are, therefore, inclined to allow the application in the interest of justice to prevent the abuse of process of the Court. Hence, the following order:-

O R D E R

- I. The application stands allowed.
- II. The F.I.R. vide C.R. No. 136 of 2023 registered with Wadodbazar police station, Tq. Phulambri District Aurangabad, for the offences punishable under sections 498-A, 494, 323, 504, 506 and 34 of the Indian Penal Code, 1860 (for short "I.P.C."), the charge sheet No. 193 of 2023 and the consequential criminal case bearing R.C.C. No. 54 of 2024 pending before the Judicial Magistrate, First Class, Phulambri, District Aurangabad, stand quashed and set aside as against applicants.

(SANJAY A. DESHMUKH, J.) (SMT. VIBHA KANKANWADI, J.)

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