



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.2686 OF 2024

- 1) Gajanan S/o Damodar Malkhede,
Age-41 years, Occu:Private Service,
R/o-Maldabhadi, Tq-Jamner,
Dist-Jalgaon, and at present
Residing at: Asaram Kokare, 6 Galli,
Akashay Daily Needs, Balaji Nagar,
Sindhi Colony, Kunal Medical,
Aurangabad, Tq. and Dist-Aurangabad,
- 2) Lilabai Damodar Malkhede,
Age-73 years, Occu:Household,
R/o-Maldabhadi, Tq-Jamner,
Dist-Jalgaon,
- 3) Damodar Bhikaji Malkhede,
Age-75 years, Occu:Nil,
R/o-Maldabhadi, Tq-Jamner,
Dist-Jalgaon,
- 4) Kailash Damodhar Malkhede,
Age-43 years, Occu:Artist,
R/o-Bungalow No.22,
Aashirwad Bungalow, Khatri Park
Society, Valvan, Lonavala,
Pune-410410,
- 5) Nita Kailas Malkhede,
Age-33 years, Occu:Household,
R/o-Bungalow No.22,
Aashirwad Bungalow, Khatri Park
Society, Valvan, Lonavala,
Pune-410410,
- 6) Rajendra Govinda Matale,
Age-53 years, Occu:Agril.,
R/o-Betawad, Tq-Jamner,
District-Jalgaon

- 7) Sangita Rajendra Matale,
Age-46 years, Occu:Household,
R/o-Betawad, Tq-Jamner,
District-Jalgaon,
- 8) Saurabh Rajendra Matale,
Age-24 years, Occu:Education,
R/o-Bungalow No.22,
Aashirwad Bungalow, Khatri Park
Society, Valvan, Lonavala,
Pune-410410.

...APPLICANTS**VERSUS**

- 1) The State of Maharashtra,
Through Police Inspector of
Bhusawal Bazarpeth Police Station,
Bhusawal, Tq-Bhusawal,
District-Jalgaon,
- 2) Chanda Gajanan Malkhede,
Age-33 years, Occu:Household,
R/o-C/o-Pandit Ziparu Kale,
R/o-Shraddha Nagar, Near Hanuman
Temple, Bhusawal, Tq-Bhusawal,
District-Jalgaon,
- 3) Laki Gajanan Malkhede,
Age-16 years, Occu:Education,
Under Guardian Mother of
Respondent No.2,
R/o-As Above.

...RESPONDENTS

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Mr. Amol A. Pawar Advocate h/f. Mr. Vijay Y. Patil Advocate
for Applicants.

Mr. A.M. Phule, A.P.P. for Respondent No.1 – State.

Mr. Ravindra Wankhede Advocate for Respondent No.2,
appointed through Legal Aid.

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

DATE OF RESERVING ORDER : 5th MARCH 2025

DATE OF PRONOUNCING ORDER : 8th APRIL 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Application has been filed, initially for quashing the First Information Report (for short "the FIR") vide Crime No. 209 of 2024 registered with Bazarpeth Police Station, Bhusawal, District- Jalgaon on 6th June 2024, for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, and by way of amendment for quashing the proceedings in R.C.C. No. 256 of 2024, pending before the learned Judicial Magistrate First Class, Court No.3, Bhusawal, District-Jalgaon.

2. Heard learned Advocate Mr. Pawar holding for learned Advocate Mr. Patil for the applicants, learned APP Mr. Phule for respondent No.1 and learned Advocate Mr. Wankhede for respondent No.2, appointed through Legal Aid. In order to cut short, it can be stated that the learned Advocates for respective parties have argued in support of their contentions.

3. The relationship between the parties is not disputed. Applicant No.1 is the husband of respondent No.2. They got married on 14th May 2007. They have a daughter, aged around 14 years on the date of the FIR. Applicant No.2 is mother-in-law and applicant No.3 is father-in-law. Applicant No.4 is brother-in-law and applicant No.5 is wife of applicant No.4. Applicant No.7 is the sister-in-law of respondent No.2, applicant No.6 is husband of applicant No.7 and applicant No.8 is son of applicant Nos. 6 and 7.

4. The informant contends that she was treated properly for about 8 to 10 months immediately after the marriage, however, thereafter the husband and parents-in-law used to insult her on some or the other pretext. The mother-in-law used to quarrel with her on the count of preparation of food. The brother-in-law, applicant No.4, who is residing at Mumbai, used to come in holidays to the matrimonial home of respondent No.2 and she submits that after his arrival, applicant Nos.1, 3 and 4 used to abuse respondent No.2 under the influence of liquor. Her husband, applicant No.1 used to assault her. Applicant Nos.6

and 7 used to harass her without any reason, by coming to the matrimonial home of respondent No.2. The parents-in-law used to tell applicant No.1 that he ought to have married to a girl from rich family. After birth of daughter in 2008, all the applicants started blaming respondent No.2 that she has given birth to a daughter when they expected son to be born. Respondent No.2 then says that she was asked to bring an amount of Rs.5,00,000/- for purchase of four wheeler. In October 2016, applicant No.1 was in jail as he was involved in an offence of murder. After he came out of the jail on bail, he started blaming respondent No.2, used to assault and abuse her. Without any reason, applicant No.1 left respondent No.2 and respondent No. 3 i.e. daughter, to the parental home of respondent No.2, on 20th January 2017. Taking into account of these allegations, it can be certainly said that the allegations are not specific, in a sense that respondent No.2 has used the words, 'on some or the other reasons' or 'without any reason' she was harassed. The daughter was born in 2008 and she was left at her parents home with daughter, in 2017 i.e. almost after about 9 to 10 years.

5. The informant has further stated that after she was left in

2017 with her parents, her relatives and brother had requested in 2019, by going to her matrimonial home to allow respondent No.2 to cohabit. It is alleged that at that time, applicant No.6 said that respondent No.2 will not be allowed to cohabit and when applicant No.1 is involved in one murder case, it will not make any difference if he commits another murder. This allegation is also vague. Applicant No.6 resides at Betawad, Taluka-Jamner, District-Jalgaon. Why he was in the matrimonial home of respondent No.2 in 2019, is a question. If there has been an attempt to resolve the dispute and send respondent No.2 for cohabitation, then why immediately after she was allegedly left at her parents home on 20th January 2017, those attempts were not made.

6. Respondent No.2 then says that after she was refused to be taken in the house in 2019, she and her daughter were brought up by her parents and even her daughter was admitted in the school at Bhusawal. Thereafter in the FIR, she directly gives the date as 11th November 2023, when it is stated that applicant No.4 had come to fetch her as well as her daughter. She states that she herself and her daughter went to the matrimonial home as her parents had advised her. Applicant

No.1 was not present and it was told that he has gone for work. Applicant No.1 returned after fifteen days, however, respondent No.2 then sent back her daughter to her parents home as her education shall not be affected. Respondent No.2 then states that after some days, applicant No.1 came under the influence of liquor and abused her and the other accused persons had also then abused and assaulted her. She then states that applicant No.1 has married with another girl and because of the same she left the matrimonial home and joined her parents. Thus, it is to be noted that this incident appears to be narrated only to bring the FIR within limitation. The last alleged incident was in 2019 and the FIR has been lodged on 6th June 2024. If certain allegations are made just to bring the complaint/FIR within limitation, then such allegations will have to be ignored.

7. Respondent No.2 then again states that in spite of not believing that the husband has performed second marriage and he resides at Sambhajinagar, she continued to stay with him but again the husband under the influence of liquor used to assault her. On 14th February 2024, she was assaulted by the husband and he left the house but in the hope, respondent No.2 continued to stay in the matrimonial home. At that time

applicant Nos. 1 to 5 were not giving her anything to eat, they used to abuse and assault her and used to say that she should bring an amount of Rs.7,00,000/- if she wants to continue to stay there. Respondent No.2 then states that on one day she was assaulted by applicant Nos.4 and 5 and then they left the house. Even applicant Nos.2 and 3 also left the house and when the grocery in the house got exhausted, she went to stay with the parents. All these allegations appear to be exaggerated i.e. built up story. Without informing the parents as to in which situation she lives, it is impossible that she would have continued to suffer. She has not then stated where the daughter was all along.

8. The statements of witnesses are on the same line and surprisingly none of them had ever tried to meet the applicants and tried to settle the dispute with the intervention of some respectable persons, nor even advised the informant to knock the doors of the Court of law. The investigating officer has not collected any evidence regarding the second marriage allegedly performed by applicant No.1. Under these circumstances, it would be an abuse of process of law if the applicants are allowed to face the trial. Hence, we pass following order:-

ORDER

(I) The Application stands allowed.

(II) The proceedings in R.C.C. No. 256 of 2024, pending before the learned Judicial Magistrate First Class, Court No.3, Bhusawal, District-Jalgaon, arising out of the First Information Report vide Crime No. 209 of 2024, registered with Bazarpeth Police Station, Bhusawal, District- Jalgaon on 6th June 2024, for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, stands quashed and set aside as against applicant Nos. 1 to 8 i.e. -
1) Gajanan S/o Damodar Malkhede, 2) Lilabai Damodar Malkhede, 3) Damodar Bhikaji Malkhede, 4) Kailash Damodhar Malkhede, 5) Nita Kailas Malkhede, 6) Rajendra Govinda Matale, 7) Sangita Rajendra Matale and 8) Saurabh Rajendra Matale.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE