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

CRIMINAL WRIT PETITION NO.1208 OF 2024

1. Shaikh Shakil s/o Shaikh Rahim
2. Shaikh Mahemuda w/o Shaikh Rahim
3. Shaikh Ayesha d/o Shaikh Rahim
4. Shaikh Osama @ Usama s/o Shaikh RahimPETITIONERS

VERSUS

1. The State of Maharashtra,
Thr. Police Inspector,
Georai Police Station,
Tq. Georai, Dist. Beed
2. Shaikh Almas w/o Maheboob AtarRESPONDENTS

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Mr Amol R. Gaikwad, Advocate for Petitioners
Mr G. D. Wattamwar, APP for Respondent No.1/State
Mr Shaikh Nasimoddin R., Advocate for Respondent No.2

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CORAM : SUSHIL M. GHODESWAR, J.

**RESERVED ON : 10 OCTOBER 2025
PRONOUNCED ON : 16 OCTOBER 2025**

ORDER :-

1. By this petition, the petitioners are praying for quashing and setting aside the order dated 29/05/2024, passed by the learned Sessions Judge, Beed, Dist. Beed in Criminal Revision No.01/2024, thereby upholding the order dated 19/11/2022, passed by the learned Judicial Magistrate First Class, Georai, Taluka Georai, Dist. Beed below Exhibit 1 in Criminal M. A. No.243/2022 which was registered

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as S.C.C. No.632/2022, filed by respondent herein, thereby issuing process against petitioners for the offence punishable under Sections 323, 504, 506 read with Section 34 of the Indian Penal Code by virtue of Section 204 of the Code of Criminal Procedure.

2. Respondent No.2 is wife of petitioner No.1. On 13/04/2022, she had filed private complaint against the petitioners before the learned Judicial Magistrate First Class, Georai for the offence punishable under Sections 323, 504, 506 read with Section 34 of the Indian Penal Code, alleging therein that, on 30/03/2022, petitioner No.1 (husband) came to her house alongwith other petitioners and on the ground of not bringing amount for purchasing of plot, they alleged to have started abusing her. Petitioner No.1 alleged to have caught hold her hair and slapped her. The accused persons alleged to have assaulted her with fist blows and kicks. On the basis of said complaint, learned Judicial Magistrate First Class has recorded her statement. Vide order dated 19/11/2022, learned Judicial Magistrate issued process against all the petitioners in relation to aforesaid crime.

3. Being aggrieved by the said order of learned Judicial Magistrate, dated 19/11/2022, the petitioners approached to the

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Revisional Court at Beed by filing Revision bearing Criminal Revision No.1/2024. However, vide order dated 29/05/2024, the learned Sessions Judge, Beed rejected the said revision application by upholding the order of learned Judicial Magistrate First Class. Being aggrieved by the said order of the learned Sessions Court, the petitioners have approached this Court.

4. Heard learned Advocate Mr Gaikwad for the petitioners, learned APP Mr Wattamwar for respondent No.1/State and learned Advocate Mr Shaikh for respondent No.2/complainant.

5. Learned Advocate for the petitioners submits that the impugned order passed by the learned Sessions Court is passed on inappropriate reasoning. The learned Sessions Court has failed to consider that the petitioners have been falsely implicated in the crime, there being matrimonial dispute between them. According to the him, respondent No.2/wife is a divorcee, having two children and residing separately at village Gadhi, and therefore, the petitioners have no concern with her. Prior to lodging of the instant private complaint, respondent No.2 had also registered another private complaint dated 05/04/2022 against the petitioners with learned Judicial Magistrate First Class, Georai, under Section 156(3) of the Code of Criminal

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Procedure bearing R.C.C. No.221/2022 (resulted in Crime No.0189/2022 registered with Georai Police Station, Dist. Beed) for offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code. In the said complaint at paragraph No.8, same incident i.e. of 30/03/2022, came to be stated and it was also alleged that the petitioners were demanding amount of Rs.10,00,000/- for purchasing plot. He further submits that, on the basis of same facts and event, the petitioners cannot be prosecuted again. According to the petitioners, respondent No.2 is having habits of filing complaints against the petitioners, and as such, learned Advocate for the petitioners prays that the impugned prosecution against the petitioners be quashed and set aside.

6. Learned Advocate for respondent No.2, however, strongly opposes the instant petition on the ground that the allegations in respect of present crime in question are separate from that were lodged vide Crime No.189/2022. The said crime was for the offence punishable under Section 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, and therefore, the petitioners are not justified in stating that respondent No.2 has lodged similar complaint on the basis of same allegations of the event took place on 30/03/2022. He then submits that this Court vide order dated 14/07/2023 passed in Criminal

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Application No.4052/2022 was pleased to quash proceedings against the petitioners except petitioner No.1. He further submits that both the orders of Courts below are correct and need no interference. Therefore, he prayed for rejection of instant petition.

7. For the purpose of adjudication of this writ petition, I have perused both the complaints dated 05/04/2022 and 13/04/2022. Upon perusal of the same, it appears that general allegations are levelled against the petitioners. It is found that both the complaints are reported for the same incident of 30/03/2022. The allegations are also in respect of harassing respondent No.2 on account of bringing money for purchasing the plot. Respondent No.2 appears to have filed another complaint with learned J.M.F.C. on the basis of same facts and events of the same date. The petitioners are therefore justified in saying that they cannot be prosecuted for the same crime again. Moreover, there is complete suppression of fact that while lodging private complaint before the learned J.M.F.C., respondent No.2 had previously filed a complaint under Section 156(3) of the Code of Criminal Procedure for the offence punishable under Sections 498-A, 323, 504 506 read with Section 34 of the Indian Penal Code against the petitioners.

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8. In the complaint bearing Criminal M. A. No.243/2022, vague allegations of harassment and demand of Rs.10,00,000/- are made by respondent No.2, which are of general nature. No specific incident of overt act of petitioners is pointed out. Based on this aspect, it will not be legal or proper to proceed against the petitioners to face trial as it will amount to abuse of process of Court. Therefore, in my opinion, both the impugned orders deserve to be quashed and set aside. Hence, I pass the following order :-

ORDER

(I) The present writ petition is allowed in terms of prayer clause (B).

(II) The order dated 29/05/2024, passed by the learned Sessions Judge, Beed, Dist. Beed in Criminal Revision No.01/2024 and the order dated 19/11/2022, passed by the learned Judicial Magistrate First Class, Georai, Taluka Georai, Dist. Beed below Exhibit 1 in Criminal M. A. No.243/2022 which was registered as S.C.C. No.632/2022, are quashed and set aside.

(III) No order as to costs.

[SUSHIL M. GHODESWAR, J.]

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Later on

9. After pronouncement of this judgment, learned APP submits that Mr N. R. Shaikh, learned Advocate was appointed for respondent No.2 through the High Court Legal Services Sub-Committee, Aurangabad.

10. Hence, fees of learned Advocate Mr N. R. Shaikh (appointed) shall be calculated and paid to him as per rules by the High Court Legal Aid Services, Sub Committee, Aurangabad.

[SUSHIL M. GHODESWAR, J.]

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