



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

CRIMINAL APPLICATION NO. 2381 OF 2023

1. Kunal s/o Satish Chaudhari, (Husband)
Age 32 yrs. Occ. Agri.
 2. Satish s/o Amrut Chaudhari, (Father in law)
Age 58 yrs. Occ. Agri.
 3. Sanjubai w/o Satish Chaudhari, (Mother in law)
Age 55 yrs. Occ. Household.
 4. Priyanka Rahul Patil, (Sister in law)
Age 30 yrs. Occ. Household
R/o Padalsare, Tq. Amalner
Dist. Jalgaon at present flat no. 1003,
10th floor, Building no. 1 Bliss
Dynamic Ultima Kalyan, Dist. Thane.
 5. Vijay Rupsing Chaudhari, (Step Father in law)
Age 51 yrs. Occ. Agri.
 6. Kalpana Vijay Chaudhari, (Step Mother in law)
Age 48 yrs. Occ. Household
 7. Narmdabai Rupsing Chaudhari, (Step Grand mother in law)
Age 65 yrs. Occ. Nil
 8. Rahul Rupsing Chaudhari, (Step father in law)
Age 42 yrs. Occ. Agri.
Applicant no. 1 to 3 and 5 to 8
R/o June Tonde, Thalner,
Tq. Shirpur, Dist. Dhule.
- ... Applicants**

Versus

1. The State of Maharashtra
Through its Police Inspector

Chopda Rural Police Station,
Tq. Chopda, Dist. Jalgaon.

2. Vaishnavi @ Poonam Kunal Chaudhari,
Age 28 yrs. occ. Household
R/o June Tonde, Thalner, Tq. Shirpur,
Dist. Dhule
At present Nimgavhan, Tq. Chopda
Dist. Jalgaon.

... Respondents

...

Mr. Vinod Prakash Patil, Advocate for Applicants.
Mr. A. R. Kale, APP for Respondent No.1 / State.
Mr. Bhartkumar Ramdeo Warma, Advocate for Respondent No.2.

...

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

RESERVED ON : 05th March, 2025.

PRONOUNCED ON : 18th March, 2025.

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

. Rule. Rule made returnable forthwith. With the consent of the learned Advocates appearing for the parties, heard finally at the stage of admission.

2 This is an application under Section 482 of the Code of Criminal Procedure, 1973, for quashment of the FIR bearing C.R. No.104 of 2023, dated 24th May, 2023, registered with Chopda Rural

Police Station, Taluka Chopda, District Jalgaon, for the offences punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code, 1960 (for short “the IPC”) and the consequential charge-sheet No.50 of 2023 in R.C.C. No.146 of 2023.

3 The application of applicant No.1 was already disposed of as withdrawn on 31st July, 2023. As per the application, the informant / respondent No.2 is the daughter-in-law of applicant Nos.2 and 3. Applicant No.4 is the sister-in-law of respondent No.2. Applicant Nos.5 and 6 are the step-parents-in-law of respondent No.2. Applicant No.7 is the grand step-mother-in-law of respondent No.2 and applicant No.8 is step father-in-law of the informant.

4 It is averred in the report by respondent No.2/informant that on 7th March, 2021 her marriage was performed with accused Kunal. It was performed in Covid-19 pandemic lock-down in Harehwar Mahadev Temple in Chopda. Her father spent Rs.2,00,000/- for the said marriage. After marriage, she was residing with her husband and applicant Nos.2 and 3. Applicant Nos.5 to 8 were residing adjacent to her matrimonial house. Applicant No.4 is married and resides in Padalsare, Taluka Amalner, District Jalgaon. After the marriage, the informant was treated well for fifteen days.

Thereafter, on 22nd March, 2021, the father of mother-in-law of informant passed away due to cancer and (Manubai) grandmother-in-law died on 30th March, 2021 due to old age. Due to these two deaths, the attitude of the entire family changed towards the informant. Her mother-in-law blamed her by saying her of being a woman with white-feet and as soon as the informant come after marriage in the house, she swallowed two persons. She called the informant as “Kulaxmi” (bad woman). Applicant No.3 expressed that the informant will destroy the entire family and the informant should be expelled from the house. Applicant Nos.2 and 3 (parents-in-law) were not allowing her husband to have a contact with informant. They were not allowing the informant to speak with her husband. They were not allowing the informant to sleep with her husband. When the informant asked as to why they are doing so, then they said that the informant has some evil spiritual power. They brought some ash like powder from Mantrika / sorcerer. The informant was forced to consume ash like powder for ten days.

5 The informant further averred that applicant No.4 (sister-in-law) came to her maternal home for delivery in the seventh month of pregnancy. The informant was not allowed to go to her room. The accused were saying to informant that her shadow should not fall

upon applicant No.4. Because of this, the informant stayed away from applicant No.4.

6 It is further averred that one day the legs of applicant No.4 became swollen and she started feeling discomfort. To relieve her pain, the informant applied oil and massaged her legs, which helped her sleep peacefully. Thereafter, applicant No.4 directed the informant to massage her legs every night until 12:00 am. Once the informant was not feeling well and went to bed early. Later, applicant Nos.3, 4, 6 and 7 came to her and taunted her by saying “Maharani you slept early and are you not ashamed? What is your routine work (i.e. massage) ? You are naked (from poorest) family. That time, they humiliated the informant by comparing her to the other daughters-in-law and daughters of the house, saying they were beautiful and belonged to wealthy families, whereas the informant did not suit their family. They said that even the next generation of the husband of informant would spoil if any child is begotten to the informant. Applicant No.3 even stated that she was deliberately keeping accused Kunal away from the informant and insisted that the informant should be expelled from the house as soon as possible. Thereafter, applicant Nos.3, 4, 6 and 7 were frequently pointing out the mistakes of her work. Even though there was a washing machine at home, the

informant was not allowed to use it for washing clothes. Due to the daily heavy workload, the informant fell ill. However, instead of taking her to the hospital, her husband told her to take medicine available at home. She felt that after some days, there will be change in the behaviour of the applicants and they would accept her in future. However, she was frequently treated with cruelty. She suffered mentally and therefore, she became more weak. The applicants and the husband of informant were saying that the informant is becoming dark (black complexion). The informant must have had any illness since before the marriage. Something like evil power is existed in the body of informant. When the informant said that it is superstitious thoughts, the applicants assaulted her with slaps and fist blows. They said the informant that if she ever talked back to them again or disclosed this matter to anyone, they would defame her in the village and expel her from the house. Even the informant was not allowed to go anywhere in the village.

7 It is further averred that on 6th November, 2021, the brother of informant Kuldeep Ashok Patil came to the informant's house. At that time, before the informant could say anything to her brother, the applicants started to say that the informant has some illness, she suffers from coughs throughout the night, take her to her

maternal home and get her CT scan and a full body check-up done and then fetch her back. Since then, the informant is residing with her parents. After Diwali, her father called her father-in-law and asked him to take the informant back to her marital home. At that time, her father-in-law said that the informant does not suit to their family and informant's father are not worthy of being their relatives. Saying this, her father-in-law disconnect the phone. The informant was hoping that after some days, the applicants and her husband would allow her to live with them. On 16th January, 2022, the informant went to her in-laws' house along with her father. That time, applicant No.3 (mother-in-law) started shouting loudly. All the applicants gathered there. They said that the informant has not undergone Corona test. Applicant Nos.5 to 8 told that Corona is the only reason, however, the informant is not suiting in their family. Other daughters-in-law are having approximately gold ornaments worth Rs.10,00,000/-. They said if the informant's father wants to send the informant for cohabitation, her father should give her gold ornaments worth Rs.10,00,000/-, otherwise, divorce is the last resort.

8 The informant further averred that her father arranged Rs.5,00,000/- and called applicant Nos.2, 5, and 8, telling them to purchase the gold of their choice. Upon this, applicant Nos. 2, 5, and

8 came to Chopda on 28th September, 2022 to buy the gold. The informant alongwith her father and uncles Dilip Patil and Vilas Patil went to Bapu Tea House, Chopda. Applicant Nos.2, 5 and 8 also arrived there. They were offered tea. While having tea, her father told them that he brought Rs.5,00,000/-. At that time, they refused to drink tea and said to her father that he promised for purchasing gold ornaments worth Rs.10,00,000/- and now saying Rs.5,00,000/-. They abused the informant, her father and uncles and said that the informant's side is devaluing them. Then applicant No.5 slapped the informant and angrily went away and sat in the vehicle. The informant was expecting that she will be allowed to cohabit with her husband. But none of her in-laws came to take her back. Therefore, she filed an application with the Women's Vigilance Committee, Jalgaon. Her husband and applicant No.2 came there. But even there, they refused to take the informant back. Therefore, the report was lodged.

9 The learned counsel for the applicants submitted that the applicants are falsely implicated in the crime. The essential ingredients of Section 498-A of the IPC are lacking. There is unreasonable delay caused in filing the report. The applicants never treated the informant with cruelty. Notice was sent to the informant by her husband. Her husband filed HMP No.141 of 2023 under Sections

5(1) and 11 read with Section 23(A) of the Hindu Marriage Act, 1955 for declaration that the said marriage is null and void. It is contended that informant's earlier marriage was dissolved, however, it is customary divorce, which is not legal. The father and brother of the informant are advocates by profession. They have cheated the family of the applicants. The informant has filed Hindu Marriage Petition for restitution of conjugal rights. False report is lodged against the applicants. He lastly prayed to allow the application by quashing the report and the charge-sheet.

10 The learned APP for the State strongly opposed the application and submitted that the names of the applicants are mentioned in the report. There are serious allegations against them. They have continuously harassed the informant and lastly demanded gold ornaments worth Rs.10,00,000/-. A quarrel took place when the father of informant was ready to give gold ornaments worth Rs.5,00,000/-. The roles of the applicants are specifically mentioned. He lastly prayed to reject the application.

11 The learned counsel for respondent No.2 also strongly opposed the application and submitted that the names of the applicants are mentioned in the report. The applicants have treated

the informant with cruelty by saying that she is not suiting in their family. The informant was forced to do heavy work. The statements of witnesses materially corroborating the prosecution's case. The essential ingredients of Section 498-A of the IPC and other sections are establishing from the report and the statements of witnesses. He submits that there is cruelty coupled with demand. He further submitted that though there is litigation for restitution of conjugal rights and divorce, the same is filed after lodging of the report. He submitted that the fact of divorce of informant from earlier marriage was communicated to the applicants and husband of the informant. Therefore, there is no substance in the arguments of the learned counsel for the applicants that the applicants were cheated. He lastly prayed to reject the application.

12 We have perused the report and the charge-sheet.

13 It would be relevant to refer to the judgment in the case of ***Rupali Devi Vs. State of Uttar pradesh***, reported in, ***AIR OnLine (2019) SC 394***, in which it is held as under:-

“14. "Cruelty" which is the crux of the offence under Section 498-A IPC is defined in Black's Law Dictionary to mean “The intentional and malicious infliction of

mental or physical suffering on a living creature, esp. a human; abusive treatment; outrage (Abuse, inhuman treatment, indignity)". Cruelty can be both physical or mental cruelty. The impact on the mental health of the wife by overt acts on the part of the husband or his relatives; the mental stress and trauma of being driven away from the matrimonial home and her helplessness to go back to the same home for fear of being illtreated are aspects that cannot be ignored while understanding the meaning of the expression "cruelty" appearing in Section 498-A of the Indian Penal Code. The emotional distress or physiological effect on the wife, if not the physical injury, is bound to continue to traumatize the wife even after she leaves the matrimonial home and takes shelter at the parental home. Even if the acts of physical cruelty committed in the matrimonial house may have ceased and such acts do not occur at the parental home, there can be no doubt that the mental trauma and the psychological distress cause by the acts of the husband including verbal exchanges, if any, that had compelled the wife to leave the matrimonial home and take shelter with her parents would continue to persist at the parental home. Mental cruelty borne out of physical cruelty or abusive and humiliating verbal exchanges would continue in the parental home even though there may not be any overt act of physical cruelty at such place."

14 A reference can be made to the judgment in the case of **CBI vs. Aryan Singh**, reported in, **2023 SCC Online SC 379**, in which the Honourable Supreme Court held that as under:-

“Para 10... As per the cardinal principle of law, at the stage of discharge and/or quashing of the criminal proceedings, while exercising the powers under Section 482 Cr. P.C., the Court is not required to conduct the mini trial.”

15 It is alleged by the informant that since beginning, after the deaths of father of mother-in-law and grandmother-in-law (Manubai) in the same month when Covid-19 pandemic was going on, the informant was blamed that because of her, those two persons died. She was compelled to even to eat the ash. Allegations against applicant No.1 are that she compelled the informant to massage her legs and on that ground other applicants scolded the informant by saying that, Maharani how you slept early ? Except that, there are no allegations against applicant No.4. These allegations are not sufficient to constitute alleged offence of cruelty on her part as per Section 498-A of the IPC. She is residing with her husband at Padalsare, Taluka Amalner, District Jalgaon and presently residing at Kalyan, District Thane.

16 There are allegations against applicant Nos.2, 3 and 5 to
8 that they demanded gold ornaments worth Rs.10,00,000/-,
otherwise to take divorce. That incident is specific and that took place
on 16th January, 2022. Thereafter, the father of the informant
arranged Rs.5,00,000/- and called applicant Nos.2, 5, and 8 and
informed them to come at Chopda to purchase the gold ornaments of
their choice. In the presence of witnesses, on 28th September, 2022
applicant Nos. 2, 5, and 8 said the father of informant that “you have
called by saying that we will purchase the gold ornaments of
Rs.10,00,000/- and now you are saying to purchase the gold
ornaments of Rs.5,00,000/-”. That time the informant, her father and
uncles were abused and applicant No.5 slapped the informant and
angrily went away and sat in the vehicle. Thereafter, the informant
made application to Women’s Vigilance Committee, Jalgaon. These
two incidents are stated by the informant to her parents and brother.
From their statements, it reveals that, except applicant No.4, other
applicants have treated the informant with cruelty by demanding gold
ornaments worth Rs.10,00,000/-, beaten and abused. All these facts,
prima-facie, establish the essential ingredients of Sections 498-A,
323, 504 and 506 of the IPC against applicant Nos.2, 3 and 5 to 8. As
far as delay is concerned, the last two incidents are occurred on 16th
January, 2022 and 28th September, 2022 and the report was lodged

on 24th May, 2023, it can be explained during the trial. The persons, who were present at the time of incident dated 28th September, 2022 are Dilip Patil and Vilas Patil, who have stated that incident. Another witness Murlidhar Ramsingh Patil has stated the incident dated 16th January, 2022. Thus, there is material corroborative evidence, which supports the informant's case. As far as some documents filed by the applicants and respondents, which are not part of the charge-sheet, are concerned, those cannot be considered at this stage. In such fact circumstances and the reasons stated above, we are of the view that the powers under Section 482 of the Cr.P.C. cannot be invoked in favour of the applicants, except applicant No.4. We are, therefore, not inclined to allow the application of applicant Nos.2, 3 and 5 to 8, except applicant No.4. The application of applicant No.1 was already disposed of as withdraw on 31st July, 2023. Hence, the following order:-

ORDER

- I. The application of applicant Nos.2, 3 and 5 to 8 stands rejected.
- II. The FIR bearing C.R. No.104 of 2023, dated 24th May, 2023, registered with Chopda Rural Police Station, Taluka Chopda, District Jalgaon, for the offences punishable under Sections 498-A, 323, 504

and 506 read with 34 of the Indian Penal Code, 1960 (for short “the IPC”) and the consequential charge-sheet No.50 of 2023 in R.C.C. No.146 of 2023, stands quashed to the extent of applicant No.4 viz Priyanka Rahul Patil only.

III. The application stands disposed of.

IV. Rule is made absolute in the above terms.

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

nga