



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

CRIMINAL APPLICATION NO. 2793 OF 2024

1. Ganesh S/o. Kashinath Warkari
Age : 35 Years, Occu. : Conductor,
R/o. At Post Nayagaon Dattapur,
Tq. Mehkar, Dist. Buldhana.
At Present : 3rd Floor, Matoshri Building,
Gat No.215, Saraswati Housing Society,
Rupeenagar, Talawade, Pune.
2. Kashinath S/o. Dattu Warkari
Age : 64 Years, Occu. : Agri.,
R/o. At Post Nayagaon Dattapur,
Tq. Mehkar, Dist. Buldhana.
3. Mathurabai W/o. Kashinath Warkari
Age : 60 Years, Occu. : Household,
R/o. At Post Nayagaon Dattapur,
Tq. Mehkar, Dist. Buldhana.
4. Varsha W/o. Santosh Sonawane
Age : 40 Years, Occu. : Household,
R/o. Ganpur, Antri Deshmukh,
Tq. Mehkar, Dist. Buldhana.
5. Santosh S/o. Kachru Sonawane
Age : 45 Years, Occu. : Agri.,
R/o. Ganpur, Antri Deshmukh,
Tq. Mehkar, Dist. Buldhana.
6. Dnyaneshwari Pandharinath Sarode
Age : 37 Years, Occu. : Household,
R/o. Shivshankar Colony, Kranti Chowk,
Chhatrapati Sambhajinagar.

.... Applicants

VERSUS

1. The State of Maharashtra
Through the Police Inspector,
Jalna Police Station, Jalna,
Tq. & Dist. Jalna.
2. Sheetal W/o. Ganesh Warkari
Age : 28 Years, Occu. : Household,
R/o. Shital Niwas, Ayodhya Nagar,
Ambad Road, Tq. & Dist. Jalna.

.... Respondents

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Advocate for Applicants : Mr. Bhushan S. Dhawale
APP for Respondent No.1-State : Mrs. P.R. Bharaswadkar
Advocate for Respondent No.2 : Mr. Aditya Lokhande h/f
Mr. Sambhaji S. Tope

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

Dated : 10th March 2025

ORDER [PER SANJAY A. DESHMUKH, J.] :-

1. This is an application for quashing the First Information Report (for short “the F.I.R.”) and charge-sheetin R.C.C. No.709 of 2024, pending before the learned Judicial Magistrate First Class-8, Jalna, Dist. Jalna, arising out of Crime bearing No.0250 of 2024, registered at Jalna Police Station, Dist. Jalna on 16.04.2024, for the offences punishable under Sections 498-A, 323, 504 read with 34 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

2. After hearing both the sides, when this Court expressed disinclination to grant any relief to applicant No.1/husband, learned Advocate for the applicants sought withdrawal of the application to the extent of this applicant. Therefore, vide order dated 08.08.2024, the present application is dismissed as withdrawn against applicant No.1.

3. Learned Advocate for the applicants pointed out the report dated 16.04.2024, in which respondent No.2/informant averred that she married with applicant No.1 on 16.04.2021. Applicant No.2 is her father-in-law, applicant No.3 is her mother-in-law, application Nos.4 and 6 are her sisters-in-law and application No.5 is husband of applicant No.4. In the said marriage, an amount of dowry of Rs.1,60,000/-, gold ring and other home appliances were given. For about two months, she was treated well. Applicant No.1/husband was a conductor in P.M.T., Pune. He used to come to visit her occasionally. When he used to go back to Pune for the job, the applicants used to abuse her in filthy language. They were saying that her behavior was not proper. She was locked inside a house.

4. The informant further averred that Applicant No.2/father-in-law was keeping an ill eye on her. When she asked

about his behavior with her, he said that 'you are none of my use, you are not required to us'. The applicants were doubting on her character and telling wrong information to her husband. They created obstacles in her cohabitation. When her husband used to come from Pune, the applicants were telling lies to her husband, therefore, her husband used to beat her. When she was pregnant, the applicants said that don't continue the pregnancy. They were not taking care of her health. She was not medically examined. Thereafter, when she went to Pune for cohabitation, that time also her husband was not behaving with her properly. On 03.11.2021, he insisted her to terminate the pregnancy and demanded Rs.2 lakhs for securing a job. He slapped her and expelled her from the house. Since then, she is residing with her parents. She begot a daughter viz. Sawali. She received a letter from Women Redressal Grievance Center, Jalna. She had lodged the report against the applicants and her husband.

5. Learned Advocate for the applicants submitted that the applicants are falsely implicated in the crime. False allegations are made against the applicants, husband and father-in-law of the informant. Applicant Nos.4 and 6 are married sisters-in-law of the informant and they are residing with their husband at different places. No specific incident is stated with exact date or period as to

when the applicants treated her with cruelty by demanding money for securing job to her husband, keeping ill eye on her, beating her, etc. It is lastly prayed to allow the application.

6. Learned APP for the State strongly opposed the application and submitted that there is a strong evidence of cruelty against the applicants. Their names are mentioned in the F.I.R. The applicants treated her with cruelty by demanding money, keeping ill eye on her, beating her, etc. and caused physical and mental cruelty and compelled her to live at parents house. It is lastly prayed to reject the application.

7. Learned Advocate for respondent No.2/informant also strongly opposed the application and submitted that the applicants are involved in causing harassment to the informant. They have treated the informant with cruelty by demanding money, keeping ill eye on her, beating her, etc. The specific incidents are stated by the informant in the report. The names of the applicants are stated in the report. There are statements of witnesses corroborating with the version of the informant. There is a strong evidence against the applicants to proceed further with the trial. In such a fact situation, the application deserves to be rejected as there is a reliable evidence against the applicants. He prayed to reject the application.

8. In the context of this case, it would be relevant to refer the decision of the Hon'ble Supreme Court in ***Mohammad Wajid and Another Vs. State of U.P. and Another, reported in 2023 SCC Online SC 951; 2023 INSC 683***, wherein the Hon'ble Supreme Court held thus :-

“34 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. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation....”

9. 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 Hon'ble Supreme Court held as under :-

“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 of Cr.P.C., the Court is not required to conduct the mini trial.”

10. In case of **Kim Wansoo Vs. State of Uttar Pradesh & Ors., reported in 2025 SCC Online SC 17**, the Hon'ble Supreme Court, in paras 9 and 11 of the judgment, has held as under :

“9. In **State of A.P. v. Golconda Linga Swamy**, this Court again held that where an FIR did not disclose the commission of an offence without anything being added or subtracted from the recitals thereof, the said FIR could be quashed.

11. We have perused the report and charge-sheet. The relatives of the informant have stated one and same story, particularly her brother, that the applicants were treating the informant with cruelty. Applicant No.2/father-in-law was having ill eye on her and the applicants demanded Rs.2 Lakhs for securing a job to the husband of the informant. On perusal of report and statements of witnesses, it is crystal clear that no specific incident of alleged cruelty with specific role of any of the applicant is stated by the informant in her report. Though there are allegations of ill eye on applicant No.2/father-in-law, it is not specifically stated as to when and in what manner, he treated the informant with cruelty by keeping ill eye on her. No

specific incident is stated by the informant as to when this incident happened. As far as beating is concerned to the informant, there is no evidence of injury caused to her. In respect of demand of Rs.2 Lakhs, it is stated that on 03.11.2021, the husband of the informant demanded said amount and insisted to terminate her pregnancy, but his application is already withdrawn.

12. Thus, there is no specific evidence against applicant Nos.2 to 6 about the alleged cruelty of doubting her character, demanding Rs.2 Lakhs, beating her for it and keeping ill eye on the informant. Thus, the essential ingredients of Sections 498-A, 323, 504 read with 34 of I.P.C. are not establishing against these applicants. The essential ingredients of Section 498-A of I.P.C. are lacking as held by the Hon'ble Supreme Court in the cases of *Kahkashan Kausar @ Sonam Vs. The State of Bihar, reported in (2022) 6 SCC 599*, *Mamidi Anil Kumar Reddy Vs. The State of Andhra Pradesh and Another, reported in (2024) SCC Online 127* and *Abhishek Vs. The State of Madhya Pradesh, reported in (2023) AIR SC 4209*, the prosecution against the applicants needs to be quashed. In such circumstances, if the applicants are compelled to face the trial, it would certainly be an abuse of process of Court. We are, therefore, inclined to exercise our powers under Section 482 of the Code of Criminal Procedure, 1973 to

quash the report to prevent the abuse of process of Court in the interest of justice against applicant Nos.2 to 6. The application deserves to be allowed.

ORDER

- I) The application is dismissed as withdrawn as against applicant No.1.
- II) The application stands allowed to the extent of applicant Nos.2 to 6.
- III) The First Information Report and charge-sheet in R.C.C. No.709 of 2024, pending before the learned Judicial Magistrate First Class-8, Jalna, Dist. Jalna, arising out of Crime bearing No.0250 of 2024, registered at Jalna Police Station, Dist. Jalna on 16.04.2024, for the offences punishable under Sections 498-A, 323, 504 read with 34 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Dowry Prohibition Act, 1961 stands quashed and set aside as against applicant Nos.2 to 6.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE