



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

CRIMINAL APPLICATION NO. 2352 OF 2023

1. Ameer Mujtaba Ameer Mohammad Hanif,
Age : 73 Years, Occu. : Retired,
R/o. Plot No.26, Opp. R.T.O. Office,
Maghrabi Colony, Aurangabad,
Tq. & Dist. Aurangabad.
2. Nusrat Sabiha Ameer Mujtaba,
Age : 68 Years, Occu. : Household,
R/o. Plot No.26, Opp. R.T.O. Office,
Maghrabi Colony, Aurangabad,
Tq. & Dist. Aurangabad.
3. Ameer Asem Ameer Mujtaba,
Age : 37 Years, Occu. : Engineer,
R/o. Plot No.26, Opp. R.T.O. Office,
Maghrabi Colony, Aurangabad,
Tq. & Dist. Aurangabad.
4. Summaiya Khan Shah Nawaz,
Age : 31 Years, Occu. : Household,
R/o. Plot No.26, Opp. R.T.O. Office,
Maghrabi Colony, Aurangabad,
Tq. & Dist. Aurangabad.

.... Applicants

VERSUS

1. The State of Maharashtra
Through Police Station Officer,
Jinsi Police Station, Aurangabad,
Dist. Aurangabad.
2. Sana Shaikh W/o. Emad Ameer,
Age : 27 Years, Occu. : Dentist,
C/o. Shaikh Shafiuddin,
R/o. House No.8-10-676,
Behind Panchayat Samiti Office,
Rahat Colony, Aurangabad,
Tq. & Dist. Aurangabad.

.... Respondents

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Advocate for Applicants : Mr. Z.H. Farooqui
APP for Respondent No.1-State : Mr. V.K. Kotecha
Advocate for Respondent No.2 : Mr. R.K. Pathan (Absent)
....

AND

CRIMINAL APPLICATION NO. 2448 OF 2023

Mir Mohtashim Ali,
Age : 54 Years, Occu. : Business,
R/o. Plot No.23, Opp. R.T.O. Office,
Magrabi Colony, Aurangabad,
Tq. & Dist. Aurangabad. Applicant

VERSUS

1. The State of Maharashtra
Through Police Station Officer,
Jinsi Police Station, Aurangabad,
Dist. Aurangabad.
2. Sana Shaikh W/o. Emad Ameer,
Age : 27 Years, Occu. : Dentist,
C/o. Shaikh Shafiuddin,
R/o. House No.8-10-676,
Behind Panchayat Samiti Office,
Rahat Colony, Aurangabad,
Tq. & Dist. Aurangabad. Respondents

....
Advocate for Applicant : Mr. Z.H. Farooqui
APP for Respondent No.1-State : Mr. V.K. Kotecha
....

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

Dated : 20th June 2025

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

1. The present applications are filed for quashing the First Information Report (for short "the F.I.R.") and charge-sheet in R.C.C. No.2506 of 2023, under Section 482 of the Code of Criminal Procedure, 1973 (for short "the Cr.P.C."), pending before the learned Judicial Magistrate First Class, Aurangabad, arising out of Crime bearing No.0164 of 2023, registered with Jinsi Police Station, Dist. Aurangabad City, dated 13.06.2023, for the offences punishable under Sections 498-A, 323 read with Section 34 of The Indian Penal Code, 1860 (for short "the I.P.C.") and Sections 3, 4 of The Dowry Prohibition Act, 1961 (for short "the Dowry Act").

2. Learned Advocate for the applicants pointed out the report dated 13.06.2023, in which respondent No.2/informant averred that applicant No.1 is her father-in-law, applicant No.2 is her mother-in-law, applicant No.3 is her brother-in-law, applicant No.4 is her sister-in-law and the applicant in Criminal Application No.2448 of 2023, is the maternal uncle of her husband.

3. The informant further averred in her report that she married with son of applicant Nos.1 and 2 viz. Imad Ameer, on 13.05.2016, as per Muslim rites and rituals. In her marriage, twenty

five tolas gold ornaments and other household articles were given. After marriage, she went with her husband for cohabitation at Aurangabad. The applicant in C.A. No.2448 of 2023 was residing with them along with the applicants there. Initially, she was treated well for six months. The applicants and her husband were taunting her and harassing her mentally. She was telling her harassment to her husband when he used to come from Pune, but he was not paying heed to her. On the say of the applicants and others, he was not talking with her and not properly behaving with her.

4. The informant further averred in her report that, in the month of December 2016, she kept her *Mangalsutra* in the almirah. That time, applicant No.2 alleged her that "you have kept that *Mangalsutra* with your parents" and harassed her for entire night. She said to her that "get the *Mangalsutra* from your parents". Therefore, her parents purchased a new Mangalsutra of three tolas and gave it to her.

5. The informant further averred in her report that, in the year 2018, she was pregnant. She was sent to her parents house for one year. She begot a son viz. Yusuf Imad on 16.01.2019. After four months of son's birth, her husband came to visit and saw the son. The

applicants and other co-accused demanded Rs.50 Lakhs for purchasing a flat. She said that her father is retired and he had performed marriages of two sisters and incurred a huge amount for it, therefore, he is not able to pay that amount. That time, her husband slapped her on face and back and said that if she fetches the amount of Rs.50 Lakhs, then she will be allowed to cohabit. On 18.01.2020, she was left at her parental house. Since then, she is residing with her parents. She was contacting her husband, but he was not responding her. When she inquired about her husband with applicant No.2, he said that her husband moved far away, he is working in Germany and England, he is staying there, she is not suitable for him, see her fate and get the Khula/divorce from him.

6. The informant further averred in her report that, she begot a son from her husband, therefore, she was not willing to get a divorce. She was not having his contact number and exact place of his residence. She told these incidents of cruelty caused to her parents, sisters, co-brother and cousin. The informant further averred in her report that, on 02.06.2022, when she was residing at Rahat Colony, her husband sent a notice of Talak-e-Rajee on her mobile. In that notice, it was written that after the lapse of a waiting period, divorce will be presumed to have been taken place. On 15.06.2022, she made

a complaint with Jinsi Police Station. On 19.07.2022, her husband sent a message by Whats App and communicated that he has taken back Talak-e-Rajee. That time, he communicated that he will come as early as possible in India and will decide about their future. Therefore, she took back complaint dated 28.07.2022. She awaited her husband that he will come into India, but he did not return. When she inquired with applicant Nos.1 and 2, they gave evasive answer and avoided to give the information. Therefore, she lodged the report.

7. Learned Advocate for the applicants submitted that the applicants are falsely implicated in the crime. General and vague allegations are made against the applicants. Though the specific incidents of cruelty is stated by the informant in the report and by the witnesses in their statements, the fact of cruelty is not establishing from the entire charge-sheet against the applicants. No medical certificate is produced on record to prove the alleged beating. False allegations of cruelty are made against the applicants. The essential ingredients of offences punishable under Sections 498-A, 323 of the I.P.C. and Sections 3, 4 of the Dowry Act are not establishing against the applicants. If they are compelled to face the trial, it would certainly be an abuse of process of Court. It is lastly prayed to allow the applications.

8. Learned APP for the State strongly opposed the applications and submitted that there is strong evidence of cruelty against the applicants. Their names are mentioned in the F.I.R. The applicants treated the informant with cruelty by demanding Rs.50 Lakhs and divorce and caused physical and mental cruelty and compelled her to reside at her parents house. It is lastly prayed to reject the applications.

9. In the context of this case, it would be relevant to refer the following authorities :

i) ***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 has laid down the law as follows :-

“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....”

ii) ***CBI Vs. Aryan Singh, reported in 2023 SCC Online SC***

379, in which the Hon’ble Supreme Court has held as follows :-

“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.”

iii) ***Kim Wansoo Vs. State of Uttar Pradesh & Ors., reported***

in 2025 SCC Online SC 17, wherein the Hon’ble Supreme Court, in para.9 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.*

10. We have perused the charge-sheet, particularly the report and statements of witnesses. The witnesses have stated similar facts as stated by the informant in the report. Though there are allegations of demanding of Rs.50 Lakhs, the report and statements of witnesses

show that it was demanded on the part of the husband of the informant, who is not a party to these applications. There is no specific incident of cruelty by demanding of Rs.50 Lakhs on the part of the applicants. General and vague allegations of cruelty are made against the applicants. They are not sustainable. The essential ingredients of Sections 498-A, 323 of the I.P.C. and Sections 3, 4 of the Dowry Act to constitute the cruelty and demand of dowry are not establishing either from the report or the statements of witnesses.

11. Considering all the aspects, above reasons and law laid down in the authorities cited supra, 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 Cr.P.C. to quash the report and charge-sheet in the interest of justice to prevent the abuse of process of Court against the applicants. The applications deserve to be allowed. Hence, the following order.

ORDER

- I) The applications stand allowed.
- II) The First Information Report and charge-sheet in R.C.C. No.2506 of 2023, pending before the learned Judicial Magistrate First Class, Aurangabad, arising out of Crime

bearing No.0164 of 2023, registered with Jinsi Police Station, Dist. Aurangabad City, dated 13.06.2023, for the offences punishable under Sections 498-A, 323 read with Section 34 of the Indian Penal Code, 1860 and Sections 3, 4 of the Dowry Prohibition Act, 1961 quashed against the applicants in both the applications.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asd