



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

CRIMINAL APPLICATION NO. 2454 OF 2023

1. Rubeena Anjum W/o. Abdul Naeem Shaikh
Age: 38 years, Occu: Household
R/o. Behind Memon Colony, Hayat Nagar,
Karanja. Tq. Karanja. Dist: Washim.
2. Abdul Naeem S/o. Abdul Hakim Shaikh
Age: 41 years, Occu: Agri.
R/o. Behind Memon Colony, Hayat Nagar,
Karanja, Tq. Karanja, Dist: Washim.
3. Heena Kausar Nadim Iqbal
Age: 33 years, Occu: Agri.
R/o. Gadge Nagar, Hairharpeth,
Washim Rd. Bypass, Akola MH.
4. Nadim Iqbal Sharfoddin Shaikh
Age: 40 years. Occu: Agri.
R/o. Gadge Nagar, Hairharpeth,
Washim Rd. Bypass, Akola MH.

... Applicants

Versus

1. The State of Maharashtra,
Through Police Inspector,
Police Station Hingoli City,
Dist: Hingoli.
2. Faraha Paravin w/o. Sayyad Mujahid Ali,
Age: 30 years, Occ: Household,
R/o. Paltan, Hingoli, Tq. & Dist: Hingoli.

... Respondents

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Mr. Ishwar K. Wagh, h/f Mr. Gaurav M. More Kumar, Advocate for Applicants.
Mr. N. R. Dayama, APP for Respondent No.1 / State.
Mr. N. R. Thorat, Advocate for Respondent No.2. (Appointed) – Absent.

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

DATE : 22nd April, 2025.

ORDER: (Per Sanjay A. Deshmukh, J.)

1 Heard the learned advocates for the respective parties.

2 This is an application under Section 482 of the Code of Criminal Procedure, 1973 (for short “the Cr.P.C.”) for quashing the F.I.R. bearing Crime No.229 of 2023, dated 19th March, 2023, registered with Hingoli City Police Station, District Hingoli, for the offences punishable under Sections 498-A, 294, 323 and 506 read with 34 of the Indian Penal Code, 1860 and under Section 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019 and the proceedings in RCC No.346 of 2023, pending in the Court of learned Judicial Magistrate First Class, Hingoli as well as consequential Charge-Sheet No.126 of 2023.

3 When this Court expressed disinclination to grant relief of quashment of proceedings and report as well as the charge-sheet to applicant Nos.1 and 3, the learned counsel for the applicants, on instructions, seeks leave to withdraw their application. Leave granted.

4 Applicant Nos.1 and 3 are the sisters-in-law of the informant / respondent No.2 and applicant Nos.2 and 4, respectively, are the husbands of applicant Nos.1 and 3.

5 The informant averred in the report that her marriage was performed with the brother of applicant Nos.1 and 3 on 9th June, 2011. Initially she was treated well for few years. Thereafter, all the accused started to treat her with cruelty. They told her that she was not suitable to accused no.1 and that her family had given insufficient dowry. Some respectable persons of the society were called by her parents for convincing the accused. During this time, the informant gave birth to two children namely, Altamsh (son) aged 11 years and Barira Fatema (daughter) aged 7 years. Her mother-in-law and her three sisters-in-law repeatedly said to her that her father had not given sufficient dowry and used to demand Rs.5,00,000/- for purchasing a tractor. Applicant No.2 and 4 and her father-in-law were instigating her husband to give Talaq to her and marry someone else, saying he could marry four women. They were abusing her with obscene language for Rs.5,00,000/-. They were instigating her to commit suicide. The mental and physical torture made her feel to commit suicide. She was not allowed to speak freely with her children. She was mentally harassed.

6 The informant further averred that on 1st March, 2023, her husband told her that he would take her to her parental home and instructed her to bring Rs.5,00,000/- from her father for purchasing a tractor. When her husband was taking her to her parental home, her parents-in-law and both sisters-in-law snatched her gold necklace, Mangalsutra, and forcibly took both of her children away. Her children cried and resisted, but applicant No.1 and 3 assaulted them and dragged them into the house. Her husband caught hold her hands and expelled her from the house. Her husband made her sit in a S.T. bus, and dropped her at her parents' house at Hingoli. Before leaving, he said to her that he will come back within 2 – 3 days and also told her to collect R.5,00,000/- from her father. The informant told that incident to her father. That time, her father told her that he had already given Rs.50,000/- twice earlier and expressed his inability to give more money. After two days, she made phone call to her husband and said to him that her father could not arrange that amount. She requested him to take her back, saying she is missing her children very much. That time, her husband told her not to return and said that he would come within 2 – 3 days to her parents' house with his parents to hold a final meeting.

7 The informant further averred that on 17th March, 2023 at

around 2:00 p.m., her husband and parents-in-law visited her parents' home. During the discussion with her father, they once again demanded Rs.5,00,000/- for purchasing a tractor. When her father expressed his inability, her husband became angry and started to abuse her and her father in obscene language. He then went outside and continued shouting abuses on the road in filthy language saying that the parents of informant are beggars. He said that if the parents of informant cannot give money, then she should give him Talaq. Her husband further said that if she did not agree to give divorce, he will pronounce Talaq. Her parents and brothers Mirza Shafiullah Beg and Mirza Zafarullah Beg tried to convince her husband, however, her husband declared loudly in front of everyone, "Farha, I give you Talaq, Talaq, Talaq." Her parents-in-laws came outside the house. They were also hurling abuses. Her husband further threatened, saying, "do not ever bring your daughter to our house again. If she comes, we will kill her and all of you. We will strip her naked and parade her in the entire village." Therefore, she lodged the report.

8 The learned counsel for the applicants submitted that applicant Nos.2 and 4 are falsely implicated in the crime. There is no cogent and acceptable evidence against them. Applicant Nos.2 and 4 are implicated in the crime only because they are husbands of sisters-in-law of the informant. There is no specific incident against applicant

Nos.2 and 4. General and vague allegation are made against applicant Nos.2 and 4. He lastly prayed to allow the application.

9 The learned APP for the State strongly opposed the application and submitted that the applicants are involved in the serious crime. Their names are mentioned in the report. They have committed anti-social crime. They treated the informant with cruelty. He lastly prayed to reject the application.

10 Here, it is relevant to refer to the decision of the Honourable Supreme Court in ***Mohammad Wajid and Another Vs. State of U.P. and Another***, reported in, ***2023 SCC Online SC 951; 2023 INSC 683***, whereunder the Honourable 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....”

11 A reference also 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.”

12 We have perused the charge-sheet, particularly, the report and the statements of witnesses. There are allegations of demand of Rs.5,00,000/- against the husband of the informant. There are serious allegations of cruelty against applicant Nos.1 and 3 that they have treated the informant with cruelty. The application of applicant Nos.1 and 3 is withdrawn.

13 On perusal of the report and the charge-sheet, particularly, the report and the statements of witnesses, it is revealed that there is no specific incident that applicant Nos.2 and 4 have treated the

informant with cruelty. There are general and vague allegations against applicant Nos.2 and 4. They are implicated in the crime only because they are husbands of the sisters. If the entire material is considered together, then it would certainly be an abuse of the process of the Court, if applicant Nos.2 and 4 are directed to face the trial. We are therefore, inclined to allow the application to the extent of applicant Nos.2 and 4 by exercising our inherent powers under Section 482 of the Cr.P.C. in the interest of justice and to prevent the abuse of the process of the Court. The application, therefore, deserves to be partly allowed in favour of applicant Nos.2 and 4. Hence, the following order:-

ORDER

- I. The application of applicant Nos.1 and 3 stands dismissed as withdrawn.
- II. Crime No.229 of 2023, dated 19th March, 2023, registered with Hingoli City Police Station, District Hingoli, for the offences punishable under Sections 498-A, 294, 323 and 506 read with 34 of the Indian Penal Code, 1860 and under Section 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019 and the proceedings in RCC No.346 of 2023, pending in the Court of learned Judicial Magistrate First Class,

Hingoli as well as consequential Charge-Sheet
No.126 of 2023, stands quashed and set aside to the
extent of applicant Nos.2 and 4 only.

III. The application stands disposed of.

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