



IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3061 OF 2024

1. Salim S/o. Nasir Shaikh,
Age : 28 Years, Occu. : Labour,
R/o. Ekta Nagar, Ranjangan Tangang,
Tq. Gangapur, Dist. Aurangabad.
2. Nasir S/o. Sikandar Shaikh,
Age : 45 Years, Occu. : Labour,
R/o. Ekta Nagar, Ranjangan Tangang,
Tq. Gangapur, Dist. Aurangabad.
3. Saminabai W/o. Nasir Shaikh,
Age : 42 Years, Occu. : Housewife,
R/o. Ekta Nagar, Ranjangan Tangang,
Tq. Gangapur, Dist. Aurangabad.
4. Saddam S/o. Nasir Shaikh,
Age : 24 Years, Occu. : Private Job,
R/o. Ekta Nagar, Ranjangan Tangang,
Tq. Gangapur, Dist. Aurangabad.
5. Nilofar W/o. Saddam Shaikh,
Age : 22 Years, Occu. : Housewife,
R/o. Ekta Nagar, Ranjangan Tangang,
Tq. Gangapur, Dist. Aurangabad.

.... Applicants

VERSUS

1. The State of Maharashtra
Through The Police Inspector,
Jafrabad Police Station,
Tq. Jafrabad, Dist. Jalna.
2. Shakilabi @ Nargis W/o. Salim Shaikh,
Age : 23 Years, Occu. : Household,
R/o. Ekta Nagar, Ranjangan Tangang,
Tq. Gangapur, Dist. Aurangabad.

At Present
C/o. Ibrahim Khan Gulab Khan Pathan,
R/o. At Post Mhasrul, Tq. Jafrabad,
Dist. Jalna.

.... Respondents

....
Advocate for Applicants : Mr. Mayur Subhedar
APP for Respondent No.1-State : Mr. A.D. Wange
Advocate for Respondent No.2 : Mr. R.N. Bharaswadkar
....

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

Dated : 24th June 2025

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

1. Heard learned Advocate for both sides as well as learned APP for the State.

2. This is an application for quashing the First Information Report (for short “the F.I.R.”) and charge-sheet in R.C.C. No.219 of 2022, under Section 482 of the Code of Criminal Procedure, 1973 (for short “the Cr.P.C.”), pending before the learned Judicial Magistrate First Class, Jafrabad, Dist. Jalna, arising out of Crime bearing No.0241 of 2022, registered with Jafrabad Police Station, Dist. Jalna, dated 07.09.2022, for the offences punishable under Sections 498, 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860 (for short “the I.P.C.”).

3. After hearing both sides, when this Court expressed disinclination to grant any relief to applicant Nos.1 to 3, learned Advocate for the applicants sought withdrawal of the application to the extent of applicant Nos.1 to 3. Therefore, vide order dated 12.08.2024, this application is dismissed as withdrawn against applicant Nos.1 to 3.

4. Learned Advocate for the applicants pointed out the report dated 07.09.2022, in which respondent No.2/informant averred that applicant No.4 is her brother-in-law and applicant No.5 is the wife of applicant No.4.

5. The informant further averred in her report that she married with the brother of applicant No.4 on 11.07.2016, as per Muslim rites and rituals. A dowry of Rs.20,000/-, gold ornaments and utensils, etc. were given. She was treated well for two and a half years. Thereafter, her mother-in-law started to harass her for trivial domestic issues by saying that she was not able to cook properly and not able to do household chores properly. She was instigating her husband and therefore, he used to beat her. He was abusing her and slapping her. Her parents' economic condition was very poor, therefore, she was bearing those harassment. She begot a girl child

viz. Alfiya, aged 03 years and a son viz. Azam, aged 01 year. After she begot the son, all the family members were saying that she has an illicit relationship and doubted her character. They were frequently beating her. They were starving her and driving out of the house. When she was not able to bear that cruelty, she used to make phone calls to her parents. However, her parents were convincing her and leaving her at her matrimonial home. She was anyhow bearing that cruelty.

6. The informant further averred in her report that the applicants, her husband and parents-in-law were demanding Rs.2 Lakhs for purchasing an autorikshaw. They threatened her that they will not allow her to cohabit if she don't fetch that amount. She said that her parents have already incurred a huge amount for the marriage, their economic condition is not sound and therefore, she is not able to fetch that amount. She didn't tell that fact to her parents. When the cruelty was increased, she told that fact to her parents. They convinced her and again sent her back for cohabitation.

7. The informant further averred in her report that, after the marriage of applicant No.4, he, her husband, applicant No.5 and parents-in-law started to harass her and continued the demand of

money. Her ornaments were mortgaged for such amount. After harassing her frequently, she was driven out of the house. She stayed with her parents. Her parents convinced them for three to four times with the help of middlemen, but they did not pay heed to them. Once, they all came to her parents house and said that the son was not begotten to her from her husband and insisted for conducting DNA test and doubted her character. Again, she was left with her children at her parental house. Therefore, she is residing with her parents in their house. Her parents and brother asked them why they don't allow her to cohabit. That time, they threatened to kill her and her brother. She made a complaint to the Women Grievance Redressal Cell, Jalna, but nothing happened. Therefore, she lodged the report.

8. Learned Advocate for the applicants submitted that applicant Nos.4 and 5 are falsely implicated in the crime. General and vague allegations are made against these applicants. Though the specific incidents of cruelty are 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 these applicants. False allegations of cruelty are made against these applicants. The essential ingredients of offences punishable under Sections 498, 498-A, 323, 504, 506 of the I.P.C. are not establishing against these

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 application.

9. Learned APP for the State strongly opposed the application and submitted that there is strong evidence of cruelty against applicant Nos.4 and 5. Their names are mentioned in the F.I.R. These applicants treated the informant with cruelty by demanding Rs.2 Lakhs for purchasing an autorickshaw and caused physical and mental cruelty. They compelled her to reside at her parents house. It is lastly prayed to reject the application.

10. Learned Advocate for respondent No.2/informant also strongly opposed the application and submitted that applicant Nos.4 and 5 are involved in the crime of treating the informant with cruelty. The specific incidents are stated by the informant in the report as to when these applicants treated the informant with cruelty by demanding Rs.2 Lakhs for purchasing an autorickshaw. The names of these applicants are mentioned in the F.I.R. There are statements of witnesses corroborating with the version of the informant. There is strong evidence against these applicants to proceed further with the trial. Therefore, the application deserves to be rejected as there is

reliable evidence against these applicants to establish the requisites of offences punishable under Sections 498, 498-A, 323, 504, 506 of the I.P.C. He prayed to reject the application.

11. 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.

12. 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. General and vague allegations are made against applicant Nos.4 and 5. The role of each of the applicant is not specifically stated by the informant as to how they harassed her and demanded Rs.2 Lakhs. The essential ingredients of Sections 498, 498-A, 323, 504, 506 of the I.P.C. to constitute the cruelty, etc. are not establishing from the charge-sheet against these applicants.

13. Considering all the aspects, above reasons and law laid down in the authorities cited supra, if applicant Nos.4 and 5 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 applicant Nos.4 and 5. The application deserves to be allowed. Hence, the following order.

ORDER

- I) The application stands allowed.
- II) The First Information Report and charge-sheet in R.C.C. No.219 of 2022, pending before the learned Judicial Magistrate First Class, Jafrabad, Dist. Jalna, arising out of Crime bearing No.0241 of 2022, registered with Jafrabad Police Station, Dist. Jalna, dated 07.09.2022, for the offences punishable under Sections 498, 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860 stands quashed against applicant Nos.4 and 5.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE