



IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2824 OF 2023

1. Ashok S/o. Bhagwan Rathod
 2. Valabai Wd/o. Bhagwan Rathod
 3. Vikrant S/o. Pandurang Rathod
 4. Pandurang S/o. Hirachand Rathod
 5. Yashoda W/o. Gunderao Chavan
 6. Gunderao S/o. Shivaji Chavan
 7. Shanta W/o. Damaji Chavan
 8. Divya D/o. Damaji Chavan
 9. Vinayak S/o. Mohan Banur
- Applicants

VERSUS

1. The State of Maharashtra
 2. The Officer Incharge
Police Station Gangakhed
 3. Surekha W/o. Ashok Rathod
- Respondents

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Advocate for Applicants : Mr. Shivaji T. Shelke
APP for Respondent Nos.1 & 2-State : Mr. A.R. Kale
Advocate for Respondent No.3 : Mr. J.A. Menezes

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

Dated : 04th March 2025

ORDER [PER SANJAY DESHMUKH, J.] :-

1. This is an application for quashing the First Information Report (for short “the FIR”) and charge-sheet bearing No.30 of 2023,

dated 31.08.2023, pending before the learned Judicial Magistrate First Class, Gangakhed, Dist. Parbhani, arising out of Crime bearing No.0254 of 2023, registered with Gangakhed Police Station, Tq. Gangakhed, Dist. Parbhani on 14.06.2023 for the offences punishable under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code, 1860 (for short "the IPC").

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 Therefore, the present application is dismissed as withdrawn against applicant No.1 and the matter is proceeded for the reliefs claimed by applicant Nos.2 to 9.

3. Learned Advocate for the applicants pointed out the report dated 14.06.2023, in which respondent No.3/informant averred that she married with applicant No.1 on 08.12.2009, who is son of applicant No.2/mother-in-law. Applicant No.3 is cousin of applicant No.1. Applicant No.4 is uncle of applicant No.1. Applicant No.5 is sister of applicant No.1. Applicant No.6 is husband of applicant No.5. Applicant No.7 is cousin sister and applicant Nos.8 and 9 are niece and nephew of applicant No.1.

4. The informant further averred that she begotten two sons viz. Anand aged 08 years and Siddhant aged 07 years. Applicant Nos.8 & 9 were residing with her and her husband at Pune. Applicant No.5 was residing adjacent to her house. Applicant No.4 frequently used to come at Pune. Her father-in-law viz. Bhagwan Harishchandra Rathod died before one and half year. Since then, all the applicants started to harass her. Applicant No.7/cousin sister-in-law once slapped her. The applicants and her husband demanded Rs.35 Lakhs to her and directed her to fetch that amount from her father.

5. The informant also averred that on 04.05.2022 and 03.09.2022, all the applicants slapped her and threatened to kill her. They said that unless and until you bring Rs.35 Lakhs, they will not allow her to stay with them. On 14.05.2023, the applicants said to her that her brother's son suffered from illness and brought her to parents house. There, they doubted on her character and quarreled and abused her. Therefore, she lodged report on 14.06.2022.

6. Learned Advocate for the applicants submitted that the omnibus and vague allegations are made against the applicants. The allegations of demand of money is falsely made. No specific incident is stated as to when the applicants had demanded money and all the

applicants, in furtherance of their common intention, treated the informant with cruelty. The informant is residing with her sons viz. Anand and Siddhant at her parents house. The witnesses have also vaguely stated about the alleged cruelty. On account of illicit relationship between the informant and other person, applicant No.1/husband filed divorce petition in the Court at Pune. It is lastly prayed to allow the application by quashing the report as it would be an abuse of the process of court.

7. Learned APP for the State strongly opposed the application and submitted that the applicants are involved in the serious crime. They have treated the informant with cruelty and slapped her. The informant is having two sons which shows that she cohabited with applicant No.1/husband for considerable period in spite of facing cruel treatment. He further submitted that names of the applicants are mentioned in the FIR. The applicants, in furtherance of their common intention, have treated the informant with cruelty by frequently harassing her physically and mentally on the account of demand of money . Hence, he prayed for rejection of the application.

8. Learned Advocate Mr. J.A. Menezes, for respondent No.3/informant submitted that the applicants are involved in the serious crime. They have frequently harassed the informant and beat her. They have caused physical and mental harassment to the informant by demanding Rs.35 Lakhs for purchasing a flat. Considering the serious allegations of mental and physical cruelty subjected to the informant, it is lastly prayed to reject the application.

9. In the contextual situation, it is also relevant to refer to 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....”

10. 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.”

11. We have perused the report and charge-sheet. It is admitted fact that divorce proceedings on the ground of adultery is filed by applicant No.1 i.e. husband of the informant. The informant is residing with her both sons with her parents. The witnesses, particularly parents of the informant have stated that the applicants and husband of the informant had demanded Rs.35 Lakhs for purchasing a flat. In support of said contention, no specific incident is stated by the informant and these witnesses as to when that amount was demanded. Though it is alleged that, on 04.05.2022 and

03.09.2022, the applicants and her husband beat her, no any medical evidence is adduced on record. The omnibus and vague allegations are made against the applicants.

12. In case of **Kim Wansoo Vs. State of Uttar Pradesh & Ors., reported in 2025 SCC Online SC 17**, 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.

13. Considering all these reasons, the essential ingredients of Sections 498-A, 323, 504, 506 read with 34 of the I.P.C. are not establishing against these applicants. If the applicants are compelled to face the trial, it would certainly be an abuse of process of court. If all these aspects are considered together, in view of ratio laid down in the judgment of **Mohammad Wajid, CBI and Kim Wansoo** (Supra), we are of the view that exercising of power under Section 482 of the Cr.P.C. is essential in the interest of justice. The application deserves to be allowed. Hence, the following order.

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 9.
- III) The First Information Report and charge-sheet bearing No.30 of 2023, dated 31.08.2023, pending before the learned Judicial Magistrate First Class, Gangakhed, Dist. Parbhani, arising out of Crime bearing No.0254 of 2023, registered with Gangakhed Police Station, Tq. Gangakhed, Dist. Parbhani on 14.06.2023 for the offences punishable under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code, 1860, stands quashed and set aside as against applicant No.2 Valabai Wd/o. Bhagwan Rathod, No.3 Vikrant S/o. Pandurang Rathod, No.4 Pandurang S/o. Hirachand Rathod, No.5 Yashoda W/o. Gunderao Chavan, No.6 Gunderao S/o. Shivaji Chavan, No.7 Shanta W/o. Damaji Chavan, No.8 Divya D/o. Damaji Chavan and No.9 Vinayak S/o. Mohan Banur.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE