



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2898 OF 2023

1. Vivek s/o Dilip Pendharkar
Age 31 years, Occ. Service,
(withdrawn)
2. Dilip s/o Ramchandra Pendharkar
Age 59 years, Occ. Retired,
3. Jagruti w/o Dilip Pendharkar
Age 57 years, Occ. Household

Applicant Nos. 1 to 3 R/o. Gajanan
Colony, Behind Reliance Mall,
Garkheda, Aurangabad

4. Ashwini w/o Ajaykumar Nandurbare
Age 39 years, Occ. Household
R/o. a-17, Jayashri Tenement, Part-1,
Radhesham Society, Arbudanagar,
Ahmedabad, Gujarat State

...Applicants

Versus

1. The State of Maharashtra
Through the Investigating Officer
Nawapur Police Station
Dist. Nandurbar
2. Varsha w/o Vivek Pendharkar
Age 26 years, Occ. Household
R/o. C/o. Bhoi Galli, Nawapur,
Tq. Nawapur, Dist. Nandurbar

...Respondents

.....
Mr. Dhananjay A. Naik, Advocate for the applicants
Mr. G.A. Kulkarni, A.P.P. for the respondent No.1
.....

**CORAM : SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**
DATED : 02nd MAY, 2025

O R D E R (PER SANJAY A. DESHMUKH, J.) :-

1. This application has been filed under section 482 of the Code of Criminal Procedure 1973 (for short the "Cr.P.C.") for quashing of the First Information Report (for short the "F.I.R.") No. 0266 of 2023, dated 26.05.2023, registered with Nawapur Police Station, District Nandurbar for the offences punishable under sections 498-A, 323, 504, 506 r.w. 34 of the Indian Penal Code, 1860 (for short the "I.P.C."), charge sheet No.109 of 2023 and the consequential criminal case bearing R.C.C. No. 132 of 2023, pending before the learned Judicial Magistrate First Class, Nawapur, District Nandurbar.

2. On 12.09.2023, while issuing notice, when this Court had expressed disinclination to grant relief to applicant No.1, Vivek s/o Dilip Pendharkar, who is husband of informant/ respondent No.2, the application of applicant No.1 came to be dismissed as withdrawn.

3. The informant averred in the report that she is married with the son of applicant Nos.2 and 3, who are her parents-in-law. The applicant No.4 is her sister-in law.

4. The informant averred in the report that she married with

son of the applicant Nos. 2 and 3 on 31.12.2018. Initially, for about six months, she was treated well by the applicants and her husband. She was a telephone operator. The applicants and her husband was doubting her character and were harassing her. She was compelled to do entire house chores. The applicants were instigating her husband to harass the informant and therefore, her husband was quarreling with the informant and even used to beat her frequently.

5. The informant further averred that when she questioned her husband as to why he is beating her, he said that he is having financial tension. He emotionally blackmailed her and started demanding money from her. For four times, her father gave Rs.1,00,000/- to Rs.1,50,000/- to her husband. Initially, she did not know as to how her husband spent that much amount but subsequently, she came to know that her husband was addicted to bad vices. He used to drink liquor, smoke cigarette and go for tourism. He used to stay in costly hotels. Therefore, he required that amount from her. The informant further averred that if she did not pay that amount to her husband, he used to apply tactics and extract money from her any how. He took out an amount of Rs.5,00,000/- from the account of her grand-mother-in-law and spent the same. Her husband took away two Tolas gold ornaments and sold it. When she came to know about it, she questioned him, at that time, her

husband beat her. He said her that he will not tell anything to her in what way he had spent that amount. He said to her that she may do whatever she wants. At that time, she was expelled from the house and for entire night she was sitting outside of the house. She informed the said incident to her father. He came there. At that time, the applicants and husband of the informant abused and also manhandled him. Herself and her father were not allowed to enter into the house. On the same day, she went to her parental house. Thereafter, she tried to talk with her husband but he did not respond to her. Therefore, the informant lodged the report.

6. Learned advocate for the applicants submitted that the allegations which are made against these applicants are vague and general in nature. In absence of specific allegations against the applicants, a false report has been lodged. The report is lodged from the parental house of the informant. There is inordinate delay of more than three years caused in lodging the report and no satisfactory explanation for the same is assigned by the informant. From the investigation papers, it appears that all the witnesses whose statements are recorded, are from the parental side of the informant. The said statements of the witnesses cannot prove that the harassment and cruelty has been caused to the informant. All these applicants are close relatives of the husband of the informant

and only in order to implicate the entire family members and the relatives, the report has been lodged. He further submitted that the applicants have been falsely implicated in the crime. Therefore, he prayed to quash the report as well as the pending criminal case.

7. Learned A.P.P. for respondent No.1 State strongly opposed the application by submitting that the applicants have treated the informant with cruelty, physically as well as mentally. There are serious allegations against the applicants for demand of money from the informant and her parents. The specific roles are attributed to each of the applicants by mentioning their names in the report. They cannot be exonerated from the criminal liability under Sections 498-A, 323, 504, 506 r.w. 34 of the I.P.C. It is lastly prayed to reject the application.

8. It would be relevant to refer to the judgment of the Hon'ble Supreme court in the case of ***Kim Wansoo Vs. State of Uttar Pradesh & Ors., reported in 2025 SCC Online SC 17***, in which 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. In the contextual situation, it is also relevant to refer to the decision of this Court in ***Mohammad Wajid and Another v. State of U.P. and Anr.***, whereunder this Court, in so far as it is relevant, 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 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 materials collected in the course of investigation.....”

9. We have perused the charge sheet, particularly F.I.R. and the statements of witnesses. The witnesses have supported the informant. Serious allegations of treating the informant with cruelty are made against her husband, whose application is withdrawn. It is not clarified by the informant as to when and in what manner, applicant No. 2 to 4 harassed her. No specific incident is stated. The applicant No.4 is married sister-in-law of the informant and she is

residing with her husband in Gujarat. If all these facts of the case are considered together, then it is crystal clear that applicant Nos. 2 to 4 cannot be held liable for the offences punishable under Sections 498-A, 323, 504, 506 r.w. 34 of I.P.C. Thus, on such vague and general allegations, compelling applicant Nos. 2 to 4 to face the trial, would be an abuse of process of the court. The case is made out for exercise of inherent powers under section 482 of the Cr.P.C. We are therefore, inclined to partly allow the application, in the interest of justice, to prevent abuse of process of the Court, to the extent of applicant Nos. 2 to 4. Hence, the following order:-

O R D E R

- I. The application stands partly allowed.
- II. The F.I.R. No. 0266 of 2023, dated 26.05.2023, registered with Nawapur Police Station, District Nandurbar for the offences punishable under sections 498-A, 323, 504, 506 r.w. 34 of the I.P.C., charge sheet No.109 of 2023 and the consequential criminal case bearing R.C.C. No. 132 of 2023, pending before the learned Judicial Magistrate First Class, Nawapur, District Nandurbar stand quashed to the extent of applicant Nos. 2 to 4 only.

(SANJAY A. DESHMUKH, J.) (SMT. VIBHA KANKANWADI, J.)

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