



IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3167 OF 2022

1. Qaiyoum S/o. Chandpasha Sayyad
2. Surraiya W/o. Qaiyoum Sayyad
3. Sayyed Awaiz S/o. Qaiyoum Sayyad
4. Sayeda Arshiya Begam Applicants

VERSUS

1. The State of Maharashtra
2. Hina W/o. Muddisir Sayyad Respondents

....
Advocate for Applicants : Mr. S.K. Shafique h/f Mr. T.J. Momin
APP for Respondent No.1-State : Mr. A.M. Phule
Advocate for Respondent No.2 : Mr. A.N. Ansari
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CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.

Dated : 14th February 2025

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

1. This is an application for quashing the First Information Report (for short “the F.I.R.”) and charge-sheet in R.C.C. No.311 of 2022, pending before the learned Judicial Magistrate First Class, Kopergaon, Dist. Ahmednagar, arising out of Crime bearing

No.0303 of 2022, registered with Kopargaon Rural Police Station, Dist. Ahmednagar on 02.08.2022, for the offences punishable under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code, 1860 (for short “the I.P.C.”).

2. Learned Advocate for the applicants pointed out the report, in which respondent No.2/informant averred that she married with the son of applicant Nos.1 and 2. Applicant Nos.3 and 4 are her brother-in-law and sister-in-law. The informant and her husband both are BHMS Doctor. He run two clinics viz. Sahara Clinic, Wanwadi, Pune and Petals Clinic, Raheja Vista, Pune. All the applicants along with her husband were residing at Sainiketan Building, Salunke Vihar Road, Kondwa, Pune.

3 The informant further averred that, after her marriage, she was treated well for one month. Thereafter, the applicants and her husband started treating her with cruelty. Applicant No.2/mother-in-law used to mentally harass her by taunting about not cooking food properly, for hailing from a rural area, incapability to understand and to work properly. Thus, she teased her in rude manner by saying that she is spending lot of money on her daughter and scolded as to why her parents are not giving anything to her. The applicants were

keeping her on starvation. Husband of the informant frequently used to beat her over petty issues.

4. The informant also averred in the report that her father was a doctor. Applicant No.2/mother-in-law and her husband were demanding Rs.10,00,000/- and 10 Tolas gold from her father, else they were threatening not to allow her to cohabit. When she refused to pay that amount, her husband beaten her.

5. The informant further averred in the report that applicant No.3/brother-in-law used to treat her as a maid. Applicant No.4 used to stay at Pune in their house and instigate her husband by saying negative things and therefore, he used to beat her. Due to harassment caused by the applicants and her husband, she called her parents at Pune and her parents convinced them. Thereafter, she cohabited with him for four months. However, harassment was continued and therefore, she left the house in March 2021 and started residing with her parents at Shahajapur, Kolpewadi.

6. The informant further averred that, thereafter, she waited for about one month expecting that her husband will come to fetch her for cohabitation, but in vein. Therefore, in January 2022,

she made application to BHAROSA Cell, Ahmednagar. In BHAROSA Cell, the applicants and her husband stated that they were ready to cohabit with her, but thereafter they refused on the count of complying their demands of gold and Rs.10,00,000/-. Therefore, the informant lodged the report against the applicants.

7. Learned Advocate for the applicants submitted that false report has been lodged against the applicants. Applicant No.1 was residing at Aurangabad. Applicant No.4 was residing at Pune. She was not residing with the informant and with her husband. False allegations are made against the applicants. No specific incident is stated as to when the applicants treated the informant with cruelty. If the applicants are compelled to face the trial, it would certainly be an abuse of process of court. Learned Advocate for the applicants lastly pray to quash the FIR and charge-sheet by exercising inherent powers under Section 482 of the Cr.P.C.

8. Learned APP for the State strongly opposed the application and submitted that there is a strong evidence against the applicants. Their names are mentioned in the FIR. They have illegally demanded Rs.10,00,000/- and 10 Tolas gold to the informant and treated her with cruelty. On the say of all the applicants, husband of

the informant was beating her. There is strong evidence of demand and cruelty against the applicants. It is lastly prayed to reject the application.

9. Learned Advocate Mr. A.N. Ansari for respondent No.2/informant also strongly opposed the application and submitted that the applicants are involved in the serious crime. They have treated the informant with cruelty by demanding Rs.10,00,000/- and 10 Tolas gold. The specific incidents are stated by the informant in the report. There are statements of witnesses corroborating with the version of the informant. Names of the applicants are mentioned in the report. There is strong evidence against the applicants to proceed further with the trial. It is lastly prayed to reject the application as there is material evidence against the applicants.

10. We have perused the report and charge-sheet. The allegations of demanding Rs.10,00,000/- and 10 Tolas gold are made against the husband of the informant and applicant No.2/mother-in-law. However, no specific incident with specific time is stated as to when the said amount and gold were demanded by husband of the informant and applicant No.2. The allegations that the informant is incapable to cook food properly, she hails from village, etc. are also not mentioned with specific time as to when such incident took place.

11. As far as allegations against applicant No.3/brother-in-law and applicant No.4/sister-in-law of the informant are concerned, it is alleged that, applicant No.3 used to treat her as a maid and applicant No.4 used to stay with her at Pune and used to goad her husband and ignite the quarrel between the informant and her husband. However, no specific incident is stated as to when that happened and because of that, informant's husband beaten her. Though there are allegations that the parents of the informant had convinced the applicants and her husband, said incident is also not specifically stated as to when that happened.

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 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.....”

13. It is prosecution's case that the informant awaited for one year expecting that her husband will come to fetch her for cohabitation. But it is not her case that she tried to contact her husband and the applicants to take her for cohabitation. Incident of BHAROSA Cell does not inspire confidence that the informant was treated with cruelty by the applicants in the office of BHAROSA Cell. There are statements of witnesses particularly parents of the informant, her brother and her cousins, in which, similar types of allegations about demand of Rs.10,00,000/- and 10 Tolas gold for

construction of hospital are made against her husband. Only in the report, it is stated that said demand was made by applicant No.2/mother-in-law and husband of the informant. It is not stated by these witnesses in their statements.

14. Considering the ratio laid down in **Kim Wansoo (Supra)**, it is found that the omnibus and vague allegations are made against applicant Nos.1 to 3, who were residing at Aurangabad at the relevant time and not found *prima facie* trustworthy. There are no allegations against the applicants that they have beaten the informant. There is no evidence of common intention though Section 34 of the I.P.C. is invoked against these applicants as to how in furtherance of their common intention, they treated the informant with cruelty. The essential ingredients of Section 498-A, 323, 504, 506 read with 34 of the I.P.C. are not establishing against the applicants either from the report or the statements of witnesses. In such circumstances, if the applicants are compelled to face the trial, it would certainly be an abuse of process of court. We are, therefore, inclined to allow the application by exercising our inherent powers under Section 482 of the Cr.P.C., for quashing the proceedings as prayed. The application deserves to be allowed. Hence, the following order.

ORDER

1. The Application stands allowed.
2. The First Information Report and charge-sheet in R.C.C. No.311 of 2022, pending before the learned Judicial Magistrate First Class, Kopargaon, Dist. Ahmednagar, arising out of Crime bearing No.0303 of 2022, registered with Kopargaon Rural Police Station, Dist. Ahmednagar on 02.08.2022, for the offences punishable under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code stands quashed and set aside as against applicant No. 1) Qaiyoum S/o. Chandpasha Sayyad, 2) Surraiya W/o. Qaiyoum Sayyad, 3) Sayyed Awaiz S/o. Qaiyoum Sayyad and 4) Sayeda Arshiya Begam.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

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