



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

CRIMINAL APPLICATION NO. 3047 OF 2023

1. Poonam W/o Swami Divyam Ojas, (sister-in-law)
Aged-44 years, Occ.: Homemaker
2. Swami S/o Divyam Ojas, (husband of sister-in-law)
Aged about – 59 years, Occ.: Service,

Both residents of Bungalow No.102,
A Wing, Shreekar Krupa,
Opposite Gandhi Garden,
Dombivali (West), Maharashtra.

... Applicants

Versus

1. The State of Maharashtra
Through Shivaji Nagar
Police Station, Latur.
2. Sapna Bhushan Bendale
Aged about 30 years,
Occ.:- Presently not known,
R/o- At Present Sitaram Nagar,
Tq and Dist- Latur.

... Respondents

...

Mr. Nikhil Lapalikar, Advocate, i/b J. P. Legal Associates, for Applicants.
Mr. S. A. Gaikwad, APP for Respondent No.1 / State.
Mr. Shankar B. Kendre, Advocate for Respondent No.2.

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

RESERVED ON : 06th March, 2025.

PRONOUNCED ON : 19th March, 2025.

J U D G M E N T : (Per Sanjay A. Deshmukh, J.)

. Rule. Rule made returnable forthwith. With the consent of the learned Advocates appearing for the parties, heard finally at the stage of admission.

2 This is an application under Section 482 of the Code of Criminal Procedure, 1973, for quashment of the FIR bearing C.R. No.464 of 2022, dated 14th November, 2022, registered with Shivaji Nagar Police Station, District Latur, for the offences punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code, 1960 (for short “the IPC”) and the consequential charge-sheet in R.C.C. No.428 of 2023, pending in the Court of learned Chief Judicial Magistrate, Latur.

3 It is averred in the report by respondent No.2/informant that on 15th July, 2018 her marriage was performed with the brother of applicant No.1. After marriage, she went to cohabit with her husband at Hyderabad. Applicant Nos.2 is the husband of applicant No.1. They were residing at Ulhasnagar, Thane. They used to frequently stay at informant’s house in Hyderabad for six months at a time, and her husband never objected. The applicants were instigating the husband of informant. Her husband was unnecessarily abusing and

quarreling with the informant. She tried to convince her husband, however, he ignored the informant and continued to abuse her. Additionally, the applicants started harassing her and by picking quarrels over minor issues. When she told that fact to her husband, he scolded the informant and started to abuse and assault her. When the cruelty became unbearable, the informant asked the accused why they are harassing her. They beaten her by kicks and fists blows. The informant was sometimes beaten and expelled from the house, but she was not willing to leave that house. She tried to convince her husband, but he did not pay any heed to her. Her husband began forcing her to join a private job in addition to all household chores. The informant was kept starved. In November 2018, when she was at home, the applicants came there at Hyderabad and started to abuse her. When she told them not to abuse her, the accused demanded Rs.10,00,000/- from her parental home to purchase a flat in Hyderabad. When she said that it is not possible, her husband beaten her by kicks and fist blows and threatened to kill her. The informant was kept on starvation and expelled her from the house frequently.

4 The informant further averred in the report that when she shifted to another house at Vedari Township, Hyderabad, the

applicants came to stay there. They were telling the informant to not sit in the bedroom and sit only in hall in front of them. The applicants were doubting her character and instigating her husband. Her husband stopped coming home regularly. The applicants and the husband of informant were threatening the informant to leave the house, otherwise they will call the police and expel her from the house. When that cruelty became unbearable, the informant told that facts to her maternal uncle Atul Kadam. Her uncle and mother tried to convince the applicants and husband of the informant. However, they did not pay any heed to them and expelled the informant from the house. Thereafter, the informant went to her maternal home in Sitaram Nagar, Latur and started to reside there.

5 The informant lastly averred that on 14th August, 2022, her husband and the applicants came to her maternal home and demanded divorce. They abused and beaten her. They threatened to kill her, if she did not give divorce. Thereafter, she filed application to the Women's Atrocity Prevention Cell, Latur and and thereafter, the report was lodged.

6 The learned counsel for the applicants submitted that the applicants are falsely implicated in the crime. The applicants were residing at Ulhasnagar, Thane. They are falsely implicated in the

crime. Applicant No.2 is having a job. No specific incident of causing cruelty is stated in the report. The houses of applicants and husband of the informant are miles away. No question of cruelty arises. It is lastly prayed to allow the application, as the essential ingredients of Section 498-A and other Sections of the IPC are not establishing against the applicants and there is no reliable evidence of alleged cruelty.

7 The learned APP for the State strongly opposed the application and submitted that the names of the applicants are mentioned in the report. There are serious allegations against them. The roles of the applicants are specifically mentioned. He lastly prayed to reject the application.

8 The learned counsel for respondent No.2 also strongly opposed the application and submitted that the names of the applicants are mentioned in the report. The applicants have treated the informant with cruelty. The essential ingredients of Section 498-A of the IPC and other sections are establishing from the report, charge-sheet and the statements of witnesses. He lastly prayed to reject the application.

9 We have perused the report and the charge-sheet.

10 It is relevant to refer to the decision of the Honourable Supreme Court in the case of ***Mohammad Wajid and Another Vs. State of U.P. and Another***, reported in, ***2023 SCC Online SC 951; 2023 INSC 683***, wherein 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 In support of the report, there are statements of witnesses. The maternal uncle of informant Atul Kadam has stated that for purchasing flat, the accused made demand of Rs.10,00,000/- to the informant. That time, she was expelled from the house. Witnesses Shobha Suryawanshi (mother of informant), Dipti

Suryawanshi (sister of informant) and Sagar Suryawanshi (brother of informant) have stated that the informant was treated with the cruelty by the applicants and the husband of the informant. From the report itself, it reveals that the first incident of alleged harassment with the informant took place in the month of November 2018, when the informant alleged that the applicants abused her and demanded Rs.10,00,000/- for purchasing a flat at Hyderabad. She has also stated that both the applicants and her husband were daily expelling her from the house, which is naturally not probable. There is no such evidence that applicant No.2 with his wife, by leaving his job staying in the house of informant for six months for many times. Though there are statements of witnesses supporting to the case of informant, the informant's case that she was treated with cruelty by demanding an amount of Rs.10,00,000/- for purchasing a flat at Hyderabad, is not specific, natural and probable. If all these allegations are considered together from the report and the statements of witnesses, those are, *prima-facie*, not found probable. From the entire charge-sheet, the essential ingredients of Section 498-A and other Sections of the IPC are not establishing against the applicants. Unreasonable delay is also caused in lodging the report. Considering all these reasons, the cruelty as contemplated under Section 498-A of the IPC as held by the Honourable Supreme Court in the case of ***Andhra Pradesh Vs.***

Golconda Linga Swamy, reported in, (2004) 6 SCC 522, is not establishing from the report and the charge-sheet.

12 If the applicants are compelled to face the trial, it would certainly be an abuse of the process of Court. We are, therefore, inclined to allow the application by exercising our inherent powers under Section 482 of the Cr.P.C. to prevent abuse of the process of the Court. Hence, the following order:-

ORDER

- I. The application is allowed.
- II. The FIR bearing C.R. No.464 of 2022, dated 14th November, 2022, registered with Shivaji Nagar Police Station, District Latur, for the offences punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code, 1960 (for short “the IPC”) and the consequential charge-sheet in R.C.C. No.428 of 2023, pending in the Court of learned Chief Judicial Magistrate, Latur, stands quashed to the extent of present applicants.
- III. Rule is made absolute in the above terms.

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