



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3089 OF 2023

1. Shaikh Ather S/o. Shaikh Moiz,
Age 32 years, Occ. Service,
R/o. Block No. 41, MHB Colony,
Champa Chowk, Aurangabad,
 2. Shaikh Moiz S/o. Mohd. Abdul Vahed
Age: 62 years, Occ. Pensioner,
R/o. As Above,
 3. Masrat W/o Shaikh Moiz
Age:-55 years, Occ. Household,
R/o. As above.
 4. Afroz Anjum W/o Shahnawaz,
Age:-29 years, Occ. Household,
R/o. Lalit Kala Bhawan,
Juna Usmanpura, Dist. Aurangabad.
 5. Firdous d/o Shaikh Moiz,
Age:- 22 years, Occ. Student,
R/o. As applicant 1 to 3
- ...Applicants

Versus

1. The State of Maharashtra,
Through Police Inspector,
Jinsi Police station, Tq. Aurangabad
Dist. Aurangabad.
 2. Salmanoor W/o Shaikh Ather.
Age: 27 Years. Occ. Nil,
R/o. Dilras Colony, Aamkhasmaidan,
Aurangabad Dist. Aurangabad.
- ...Respondents

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Mr. Md. Asif Iqbal Siddiqui M.T. advocate for the applicants
Mr. G.A.Kulkarni, advocate respondent No.1
Mr. S.V. Jadhavar h/f Mr. Saeed S. Shaikh, advocate for respondent
No.2
.....

**CORAM : SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.
DATE OF RESERVING THE : 19.03.2025
ORDER
DATE OF PRONOUNCING : 28.03.2025
ORDER**

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

1. Heard learned advocates for both the sides.
2. This is an application filed for quashing of the First Information Report (for short "report") vide C.R. No. 206 of 2023 registered with Jinsi police station, District Aurangabad for the offences punishable under Sections 323, 498-A, 504, 506 r.w. 34 of Indian Penal Code (for short "I.P.C.") and under Sections 3 and 4 of Dowry Prohibition Act, 1961 with consequential criminal case bearing R.C.C. No. 2786 of 2023, pending before the J.M.F.C. Court No.2, Aurangabad.
- 3, The informant - respondent No.2 alleged in the report that she was married with applicant No.1 on 9.11.2017 at Aurangabad. 12½ Tolas gold ornaments were given to her in that marriage. Cash of Rs.50,000/- was also paid to the husband of the informant for purchasing gold ring and clothes for him. For about two months, the informant was treated well by the applicants. Thereafter, applicant No.1 husband, applicant Nos. 2 and 3 in-laws, applicant Nos. 4 and 5

sisters-in-law of the informant started to harass her by abusing and insulting her. When the informant questioned them as to why they are harassing her, they said that dowry was not given in her marriage. They also slapped and beaten her by fist and kick blows. She could bear that cruelty for about one year. She begotten a male child on 10.01.2019. Because of cesarean, the doctor advised her for bed rest, however, within three months, she was taken back by her husband. The informant informed that fact to her father and other relatives. They came to convince the applicants but they were not convinced. On the contrary, they demanded Rs.5,00,000/- for purchasing the car. They said that they will not allow her to stay with them. They kept all articles with them and expelled her from the house on 24.12.2019 by beating her. Since then she is residing with her parents.

4. The informant further averred that she was waiting that the applicants will come to fetch her but they did not come to fetch her. Therefore, she lodged the complaint with Women Grievance Redressal Cell in the office of the Police Commissioner, Aurangabad on 3.6.2023. The police tried to convince the applicants. Before the police, the applicants were saying that they are ready to take back the informant for cohabitation but after coming at house, they said that unless they paid Rs.5,00,000/- for purchasing the car, they will

not take her back for cohabitation. Therefore, she lodged the report on 25.7.2023.

5. Learned advocate for the applicants submitted that the applicants are falsely implicated in the crime. There is no specific evidence against the applicants that they treated the informant with cruelty by abusing, beating and demanding Rs.5,00,000/- for purchase of car. Learned advocate for the applicants further submitted that false report is lodged after deliberation. He pointed out the statements of witnesses and submitted that those are stereotype and the contents of it are similar to the report. He pointed out the contents in the case filed by the informant under the Domestic Violence Act bearing P.W.D.V.A. No. 497 of 2020, in which she has claimed maintenance and other reliefs. He submitted that in that complaint the alleged demand of Rs.5,00,000/- to purchase the car by the applicants is nowhere stated by the informant. He submitted that the applicant No.4 is married sister-in-law of the informant. She is residing at another place i.e. at Lalit Kala Bhavan, old Osmanpura, Aurangabad. The applicants are falsely implicated in the crime. The essential ingredients of sections Sections 323, 498-A, 504, 506 r.w. 34 of I.P.C. are not establishing against the applicants. The alleged cruelty on account of demand of dowry by the applicants is also not specific and certain to constitute the offences under sections 3 and 4

of Dowry Prohibition Act, 1961. He therefore, prayed to quash the report and the charge sheet against the applicants to prevent the abuse of process of court.

6. 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 for non fulfillment of the demand of Rs.5,00,000/- for purchase of the car. The informant has specifically mentioned the names of the applicants in the report and each of them are involved in the crime of cruelty. The learned A.P.P. submitted that considering the roles attributed to the applicants, they cannot be exonerated from the criminal liability under Sections 323, 498-A, 504, 506 r.w. 34 of I.P.C. and under sections 3 and 4 of Dowry Prohibition Act, 1961. It is lastly prayed to reject the application.

7. Learned advocate for respondent No.2-informant submitted that the applicants have treated the informant with cruelty. The names of the applicants are mentioned in the report with specific role attributed to them in respect of demand of Rs.5,00,000/- for purchase of car and due to non fulfillment of that demand, the informant has been harassed frequently by the applicants. The applicants have treated the informant with cruelty, which constitute

the offences referred in the F.I.R. Learned advocate 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 report and the charge sheet. The statements of witnesses, who are relatives of the informant are mostly similar to the report lodged by the informant. The allegations in the report are general in nature and no specific incident is quoted about the alleged cruelty, as stated by the informant and the witnesses. The role of the applicants is also not specifically stated by the informant as to when and how exactly the applicants have treated the informant with cruelty by demanding Rs.5,00,000/- to her. The general, vague and omnibus allegations are made against the applicants. Their specific role with overt act is not stated. Though the incident dated 24.12.2019 is stated, it is not stated, which articles are given in the marriage, which were taken away by each of the applicants and which applicant has specifically demanded Rs.5,00,000/- to her for purchase of car.

10. The report is lodged on 25.7.2023 and applicant No.1 has filed the case for restitution of conjugal rights as per section 281 of the Mohammedan Law on 3.12.2020. The P.W.D.V.A. Case No. 497 of 2020 was filed by the informant on 11.12.2020. From these three dates, it can clearly be inferred that the report is lodged after filing of the said proceedings, in the year 2023. If all these facts are

considered together, the essential ingredients of Sections 498-A, 323, 504, 506 r.w. 34 of I.P.C. are not establishing against the applicants. Considering the facts and circumstances of the case and aforesaid reasons, we are of the view that compelling the applicants to face the trial would certainly be an abuse of process of the court. We are therefore, inclined to exercise our powers under section 482 of the Cr.P.C., in the interest of justice for quashing the report and the consequential criminal case lodged and registered against the applicants to prevent the abuse of process of the court as per the law laid down by the Hon'ble Supreme Court in the case of **Kim Wansoo Vs. State of Uttar Pradesh & Ors. (supra)**. The application deserves to be allowed. Hence, the following order:-

O R D E R

- I. Criminal application stands allowed.
- II. The F.I.R. vide C.R. No. 206 of 2023 registered with Jinsi police station, District Aurangabad for the offences punishable under Sections 323, 498-A, 504, 506 r.w. 34 of I.P.C. and under Sections 3 and 4 of Dowry Prohibition Act, 1961 and the consequential criminal case being R.C.C. No. 2786 of 2023 pending before the J.M.F.C. Court No.2, Aurangabad, stand quashed.

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