



**IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1506 OF 2022

1. Hurunnisa Begum Rafiquddin Shaikh,
Age : 56 Years, Occu. : Household,
R/o. Plot No.8-12-221, Lane No.4,
Kaiser Colony, Aurangabad,
Tq. & Dist. Aurangabad.
2. Rafiquddin Abdul Razzak,
Age : 65 Years, Occu. : Business,
R/o. Plot No.8-12-221, Lane No.4,
Kaiser Colony, Aurangabad,
Tq. & Dist. Aurangabad.
3. Shakeel Ahmed Rafeeqe Ahmed,
Age : 31 Years, Occu. : Private Job,
R/o. Plot No.8-12-221, Lane No.4,
Kaiser Colony, Aurangabad,
Tq. & Dist. Aurangabad.
4. Arshiya Nazneen W/o. Nasiroddin Kazi,
Age : 40 Years, Occu. : Household,
R/o. Plot No.9, Mujjafarnagar,
N-13 HUDCO, Aurangabad,
Tq. & Dist. Aurangabad.
5. Nasiroddin Mukimoddin Kazi,
Age : 46 Years, Occu. : Business,
R/o. Plot No.9, Mujjafarnagar,
N-13 HUDCO, Aurangabad,
Tq. & Dist. Aurangabad.
6. Hina W/o. Faisal Sayyad,
Age : 32 Years, Occu. : Houshold,
R/o. Plot No.9-3,
Old Post Office Road, Partur,
Tq. Partur, Dist. Jalna.

7. Sayyad Faisal Ali Sayyad Fajal Ali,
Age : 37 Years, Occu. : Private Job,
R/o. Plot No.9-3,
Old Post Office Road, Partur,
Tq. Partur, Dist. Jalna.

.... Petitioners

VERSUS

1. The State of Maharashtra
Through Police Station Officer,
Kranti Chowk Police Station,
Dist. Aurangabad.
2. Hamida Khatoon W/o. Taufiq Ahemad,
Age : 32 Years, Occu. : Household,
C/o. Anwar Khan Hyat Khan,
Beside Parvati Hospital, Near Monus Hotel,
Opposite University Gate, Jaisingpura,
Aurangabad, Tq. & Dist. Aurangabad.

.... Respondents

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Advocate for the Petitioners : Mr. Z.H. Farooqui
Addl. P.P. for Respondent No.1-State : Mr. P.S. Patil
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**CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

Dated : 28th July 2025

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

1. Heard learned Advocate for the petitioners as well as learned APP for the State.
2. The present petition is filed for quashing the First Information Report and charge-sheet in R.C.C. No.2201 of 2022, under Section 482 of the Code of Criminal Procedure, 1973

(hereinafter referred to as “the Cr.P.C.”), pending before the learned Chief Judicial Magistrate, Aurangabad, arising out of Crime bearing No.0235 of 2022, registered with Kranti Chowk Police Station, Aurangabad, Dist. Aurangabad, dated 30.09.2022, for the offences punishable under Sections 498-A, 323, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 (hereinafter referred to as “the IPC”) and Section 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019.

3. Learned Advocate for the petitioners pointed out the report dated 30.09.2022, in which respondent No.2/informant averred that petitioner No.1 is her mother-in-law, petitioner No.2 is her father-in-law, petitioner No.3 is her brother-in-law, petitioner Nos.4 and 6 are married sisters-in-law and petitioner Nos.5 and 7 are the husbands of petitioner Nos.4 and 6, respectively.

4. The informant further averred in her report that, in the year 2013, she got married with the son of petitioner Nos.1 and 2. After marriage, for about four years, she cohabited with her husband at Kaiser Colony, Near Zakir Hussain School, Aurangabad and all the petitioners were living with them under one roof. Thereafter, the petitioners demanded Rs.20 Lakhs for the construction of house. On that count, they started to harass her by beating her with kicks and

fist blows. Therefore, due to harassment caused to her, on the say of her husband, she and her husband went to reside at Plot No.05, Shaktinagar, Maljipura, Behind Devpriya Hotel, Aurangabad. The petitioners used to come there and harass her on the count of bringing of Rs.20 Lakhs from her mother and brother. They used to beat her by slapping her.

5. The informant further averred in her report that, two years prior to lodging the report, her husband and petitioner Nos.3 and 5 mortgaged her ten to twelve tolas of gold ornaments for the mutation of the house at plot No.5, Maljipura, in the name of her husband. From time to time, she made complaints to police station and Women Grievance Redressal Cell. On 19.09.2022, around 02.30 p.m., at Bharosa Cell, Silleshkhana, when the hearing was going on between her, her husband and the petitioners, her husband uttered the word "*Talaq*" three times before her brothers viz. Anwar Khan and Ahmed Khan, and said that now he is freed, see how many wives he will have. In the application made by her husband on 19.09.2022, he had stated that he had given oral *Talaq* to her. Therefore, the informant lodged the report.

6. Learned Advocate for the petitioners submitted that the petitioners are falsely implicated in the crime. General and vague

allegations have been made against the petitioners. Since the inception of marriage, the husband of informant has served at various places for his job. The informant herself deserted her husband. The report lodged by the informant is not within limitation. If the petitioners are compelled to face the trial, it would certainly be an abuse of the process of the Court. It is lastly prayed to allow the petition.

7. Learned APP for the State strongly opposed the petition and submitted that there is strong evidence of cruelty against the petitioners. Their names are mentioned in the report. The petitioners treated the informant with cruelty by demanding an amount of Rs.20 Lakhs. They compelled her to reside at her parents house. It is lastly prayed to reject the petition.

8. Here, it is apt to mention that a Division Bench of this Court in *Musin Thengade and Ors. vs State of Maharashtra and Anr., (Criminal Application 887 of 2023, Decided on 29.01.2025)*, observed that "a limitation for offence punishable under section 498-A of the IPC shall commence from the last act of cruelty. Offence under section 498-A of the IPC is a continuing offence implies that each act of cruelty would offer new starting point of limitation. Limitation for prosecution under Section 498-A does not continue for indefinite

period. Such interpretation will render Section 468 of the Cr.P.C nugatory or otiose for the purpose of Section 498-A of the IPC, which does not appear to be the intention of legislature".

9. We have perused the charge-sheet, particularly the report and statements of witnesses. The informant states in her report that she got married in the year 2013 and cohabited with her husband and the petitioners under one roof for four years at Kaiser Colony, Aurangabad and during the said period, the petitioners caused physical and mental cruelty to her by demanding Rs.20 Lakhs. She further states that she and her husband left that house after four years and started living separately at Maljipura, Aurangabad. The petitioners also used to visit there and abuse and beat her for bringing the said amount from her parents.

10. The first incident of cruelty occurred during the four years following her marriage. The subsequent incident of cruelty was caused to the informant when she and her husband left the company of the petitioners after living four years with them. She ought to have lodged the report for the alleged cruelty caused to her immediately. However, she had not lodged the report. The informant states about the incident of mortgaging her gold ornaments by her husband and

petitioner Nos.3 and 5, for mutating the house property in the name of her husband.

11. If we consider the last act of cruelty when the informant and her husband left the house at Kaisar Colony and started to reside at Maljipura, Aurangabad, where the petitioners caused cruelty to her, however, no specific date and time has been mentioned by the informant about the alleged cruelty. As per Section 468 of the IPC, the period of limitation for lodging the report under Section 498-A is three years and the punishment for it is three years. The present report has been lodged on 30.09.2022 and the last act of cruelty caused to the informant after four years of marriage, which was performed in the year 2013. Therefore, after four years from 2013 till lodging of the FIR dated 30.09.2022, there is a lapse of more than three years period. As per Section 468 of Cr.P.C., for the offence punishable under Section 498-A of IPC, the report should be lodged within three years. The report against these petitioners is lodged after three years. Considering this important aspect and the observations in **Musin Thengade (Supra)**, the report lodged by the informant is barred by law of limitation.

12. There is allegation against the husband of informant that, on 19.09.2022, he has given oral *Talaq* to her and caused cruelty to

her. However, he is not a party to this proceeding. Considering the above reasons, if the petitioners are compelled to face the trial, it would certainly be an abuse of the process of the Court. We are, therefore, inclined to exercise our powers under Section 482 of the Cr.P.C. to quash the report and charge-sheet in the interest of justice to prevent the abuse of the process of the Court against the petitioners. The petition deserves to be allowed. Hence, the following order.

ORDER

- I) The Writ Petition is allowed.
- II) The First Information Report and charge-sheet in R.C.C. No.2201 of 2022, pending before the learned Chief Judicial Magistrate, Aurangabad, arising out of Crime bearing No.0235 of 2022, registered with Kranti Chowk Police Station, Aurangabad, Dist. Aurangabad, dated 30.09.2022, for the offences punishable under Sections 498-A, 323, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 and Section 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019 stands quashed against the petitioners.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE