



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4125 OF 2023

1. Shaikh Nazir S/o. Ahmad Shaikh,
Age: 51 years, Occu.: Business,
R/o. Subhashnagar, Dharmabad,
Tq. Dharmabad Dist. Nanded.
2. Shabana Sultana w/o. Shaikh Nazir,
Age: 48 years, Occu.: Household,
R/o. As Above.
3. Aamrin Sultana w/o. Mushtak Shaikh,
Age: 35 years, Occu.: Household,
R/o. House No.9-17-836
Madapalli Nizamabad South Mandal,
Jawahar Road, Nizamabad,
Telangana.
4. Rukhiya Begum W/o. Shaikh Hussain,
(Husband's Cousin Sister)
Age: 58 years, Occu.: Household,
R/o. Mohsin Colony, Degloor Naka,
Nanded Tq. & Dist. Nanded
5. Shafi Ahemad S/o. Shaikh Hussain
Age: 36 years, Occu.: Business,
(Husband's Nephew)
R/o. Mohsin Colony, Degloor Naka,
Nanded Tq. & Dist. Nanded
6. Minhaj Aarefa W/o. Shafi Ahemad,
(Wife of Husband's Nephew)
Age: 35 years, Occu.: Household,
R/o. Mohsin Colony, Degloor Naka,
Nanded Tq. & Dist. Nanded
7. Rihana Begum W/o. Ahemad Hussain,
(Husband's Sister)
Age: 48 years, Occu.: Household,
R/o. 1-25/2, Masalga, Dist. Adilabad.
Telangana-504102.
8. Zarina Begum W/o. Shaikh Salim,
Age: 38 years, Occu.: Household,
R/o. Jankampet, Yedapally, Nizamabad.

Telangana State. (Husband's Sister)

9. Shaikh Mukkim S/o. Shaikh Ahemad,
(Husband's Brother)
Age: 40 years, Occ.: Business,
R/o. Lal kuntha Galli,
Subhashnagar, Dharmabad
Tq. Dharmabad, Dist.: Nanded. ...Applicants

Versus

1. The State of Maharashtra,
Through Police Station Itwara,
Dist. Nanded.

(Copy to be served on A.P.P.
High Court Bench at Aurangabad)
2. Amtur Raheman @ Nuzhat Fatima
w/o. Shaikh Nazir,
Age: 36 years, Occ.: Household,
R/o. At Present R/o. Umarkalni,
Nanded, Tq. and Dist. Nanded. ...Respondents

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Mr. S.R. Bagal h/f Mr. B.N Gadegaonkar, advocate for the applicants
Mrs. Rashmi P. Gour, A.P.P. for respondent No.-State
Mr. Sharad Shinde, advocate for respondent No.2 (appointed
through legal aid)

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

DATED : 12th MARCH, 2025

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

1. Heard.
2. Learned advocate for the applicants, on instructions, seeks
leave to withdraw the application of applicant No.1-husband. Leave
granted. The application of applicant No.1 is dismissed as withdrawn.

3. The applicant Nos. 2 to 9 are seeking quashing of the proceedings of R.C.C. No. 749 of 2022 pending before the learned J.M.F.C. Nanded, District Nanded arising out of the F.I.R. No. 145 of 2022, registered with Itwara police station, Nanded, District Nanded, for the offences punishable under Sections 498-A, 323, 504, 506 r.w. 34 of I.P.C.

4. The informant averred in the report that applicant No. 2 is the first wife of her husband, applicant No.3 is wife of her brother-in-law, applicant No.4 is cousin sister of her husband, applicant No.5 is nephew of her husband, applicant No.6 is wife of her husband's nephew, applicant No.7 is sister of her husband, applicant No.8 is another sister of her husband and applicant No.9 is brother of her husband.

5. The informant averred in the report dated 13.6.2022 that her marriage took place with accused No.1 on 29.9.2018. Her husband Najir was earlier married with applicant No.2 and he has begotten a daughter from her. Two brothers of the husband of the informant are residing in the said house. Applicant No.7 Rihana is residing at Dharmabad. Applicant No.8 is residing at Nijamabad. After marriage, the informant was residing at Nanded in a rented

room. Accused No. 1 used to stay there for one or two days in a week. He used to pay amount of rent of that room. It is averred that her husband used to tell her that he is having business and therefore, he cannot come to Nanded to stay with her. She has further averred that her husband said to her that he will keep her in a separate room at Dharmabad and accordingly, he took the informant there. Her husband took one room on rent and she was residing there for a month. Thereafter, he took the informant to reside on the first floor of his house. After staying there, for about two months, on 11.12.2019, the husband of the informant told her that she is not able to cook the food properly and started to beat her. He used to tell the informant that his first wife Shabana is to be treated like her mother-in-law and the informant should do the work as per her instructions. Thereafter, all the applicants started harassing the informant by saying that she is not able to work properly. Her parents have not given dowry. The husband of the informant used to demand an amount of Rs.5,00,000/- for starting new automobile shop and on account of non fulfillment of the said demand he started to beat and harass her. The informant sustained injuries to her head. The applicants used to tell the informant that she is lunatic and she is not able to work properly. They used to say that she is not able to conceive and harassed her. They also used to harass her on the count that her parents have not given dowry in the marriage. Since last 2½ years,

the informant is residing at her parents' house at Nanded. The relatives and prestigious persons from the society tried to convince the husband of the informant, at that time the applicants and her husband told her that after Ramzan they will come and fetch her. After Ramzan, the husband of the informant did not go to Dharmabad to fetch the informant. Therefore, she made complaint to the Women Redressal Grievance Cell at Dharmabad. There some relatives and prestigious people in the society tried to convince the husband of the informant and others but it went into vain. The informant went to Nanded and made a complaint to Women Grievance Redressal Cell, but the husband of the informant refused to fetch her back. On the contrary, he demanded Rs.5,00,000/- for starting new automobile shop. Therefore, the informant lodged the report against her husband and the present applicants on account of treating her with cruelty.

6. Learned advocate for the applicants submits that there are no specific allegations against the present applicants. All allegations are omnibus and general in nature. The report is filed after 2½ years of the alleged incident of cruelty. No report was filed when the informant was in her matrimonial home. From the charge sheet, 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 entire family and the relatives, the report has been lodged, when there is no evidence against them. He further submits that the applicants have been falsely implicated in the crime. Therefore, he prayed to quash the report as well as the charge sheet.

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. The names of the applicants are mentioned in the report. The specific roles by mentioning their names are attributed to each of the applicants. They cannot be exonerated from the criminal liability under Sections 498-A, 323, 504, 506 r.w. 34 of I.P.C. . It is lastly prayed to reject the application.

8. Learned advocate for respondent No.2-informant submits that 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 starting new automobile shop 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.

9. 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.....”

10. We have perused the report and the statements of the witnesses in the charge sheet. There are statements of witnesses supporting to the informant's case. However, all those persons are relatives of the informant. Though the informant alleged that she was beaten by her husband and the present applicants, no injury certificate showing that she had caused any injury, is placed on record to establish it.

11. The report is lodged after 2½ years after the informant went to stay at her parents' house. Though there are allegations of demand of Rs.5,00,000/-, those are against husband of the informant specifically, whose application has been dismissed as withdrawn. As far as the present applicants are concerned, there are vague and omnibus allegations against them and such omnibus allegations are not sustainable. There is no supporting evidence to establish the alleged cruelty against the applicants. All family members of the husband of informant and even his distant relatives are also roped in this crime. If these applicants i.e. applicant Nos. 2 to 9 are compelled to face the trial on such unsupported material, it would certainly be an abuse of process of Court. Therefore, it is necessary to invoke our

inherent powers under section 482 of the Cr.P.C. for quashing of the report in question. In the interest of justice, and therefore, we are inclined to allow the application. Hence, we pass the following order:-

O R D E R

- I. Criminal application stands allowed.
2. The R.C.C. No. 749 of 2022 pending before the learned Judicial Magistrate First Class, Nanded, district Nanded arising out of F.I.R. No. 145 of 2022 registered with Itwara police station, Nanded, district Nanded for the offences punishable under Sections 498-A, 323, 504, 506 r.w. 34 of I.P.C. are quashed as against applicant Nos.2 to 9.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

rlj/