



IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4308 OF 2023

1. Devendra S/o. Kishor Tayade,
Age : 36 Years, Occu. : Service,
R/o. Wankhede Society, Dikshitwadi,
Tq. Jalgaon, Dist. Jalgaon.
At Present R/o. D-2, Shrikrushna Park,
Manewadi, Rajalwadi Road, Sillod,
Tq. Sillod, Dist. Aurangabad.
2. Savita @ Kishor Tayade,
Age : 53 Years, Occu. : Household,
R/o. Wankhede Society, Dikshitwadi,
Tq. Jalgaon, Dist. Jalgaon.
3. Kishor S/o. Chudaman Tayade,
Age : 63 Years, Occu. : Agri.,
R/o. Wankhede Society, Dikshitwadi,
Tq. Jalgaon, Dist. Jalgaon.
4. Pankaj S/o. Kishor Tayade,
Age : 34 Years, Occu. : Service,
R/o. Wankhede Society, Dikshitwadi,
Tq. Jalgaon, Dist. Jalgaon.

.... Applicants

VERSUS

1. The State of Maharashtra
Through Police Station,
Jilha Peth Police Station,
Jalgaon.
2. Radhika W/o. Devendra Tayade,
Age : 32 Years, Occu. : Household,
R/o. Vivekanand Nagar, Behind Sub-Jail,
Tq. & Dist. Jalgaon.
R/o. Wankhede Society, Dikshitwadi,
Tq. Jalgaon, Dist. Jalgaon.

.... Respondents

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Advocate for Applicants : Mr. Datta A. Madake
APP for Respondent No.1-State : Mr. S.A. Gaikwad
Advocate for Respondent No.2 : Mr. S.V. Suryawanshi
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**CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

Dated : 09th June 2025

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

1. Heard learned Advocate for both the sides as well as learned APP for the State.

2. This is an application for quashing the First Information Report (for short “the F.I.R.”) and charge-sheet in R.C.C. No.335 of 2023, under Section 482 of the Code of Criminal Procedure, 1973 (for short “the Cr.P.C.”), pending before the learned Chief Judicial Magistrate First Class, Jalgaon, arising out of Crime bearing No.0435 of 2022, registered with Jilha Peth Police Station, Dist. Jalgaon, dated 12.06.2022, for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860 (for short “the I.P.C.”)

3. After hearing both the sides, when this Court expressed disinclination to grant any relief to applicant Nos.1 to 3, learned

Advocate for the applicants sought withdrawal of the application to the extent of applicant Nos.1 to 3. Therefore, this application is dismissed as withdrawn against applicant Nos.1 to 3.

4. Learned Advocate for the applicants pointed out the report dated 12.06.2022, in which respondent No.2/informant averred that she married with the brother of applicant No.4 on 07.07.2011. Her husband was a teacher and he used to bring the girl students and talk with them on the terrace for hours together. When she was opposing him for the said act, he was abusing her in filthy language, beating her and used to throw household articles here and there. He used to beat her with any article that was in his hands. He was not allowing her to go to her parents house and to talk with her parents. He frequently came under the influence of liquor and doubted her character. He, under the influence of liquor, used to expel her from the house. He was telling her that "I will leave you, I have illicit relationships with a woman, you don't suit me, I want to perform second marriage, do what you want to do and proceed to your parents house".

5. The informant further averred in her report that applicant No.4 along with others demanded Rs. 5 Lakhs to her to start

a private tuitons. On 04.11.2021, after the Lakshmi Poojan was over, she said to her husband that her brother's birthday is to be celebrated, therefore, she wants to go to her parents house. On that count, he threw the plate of meal to her person. He said that "you are having illicit relationships with others". That time, her mother-in-law took out five grams gold chain, one tola gold ear ring, three grams ring and silver waist chain from her person.

6. The informant further averred in her report that her ornament box, which was kept before the god, was picked up by applicant No.4. Her parents-in-law caught hold of her hands and she was taken out of the house at about 10.00 p.m. She sat in front of the house for entire night. She requested them to take her in the house. In the morning, her husband left her to her parents house and he went to Balapur, Sillod.

7. The informant further averred in her report that, after 15 days, she made a phone call to her husband to fetch her back. He demanded money and said that "first fulfill the demand, then I will fetch back you". She agreed. Therefore, her husband came to her on 24.01.2022 at about 07.00 p.m. On the second day, they both started to proceed to her marital home. While en route at Fardapur, her

mother-in-law made phone call to her husband. Thereafter, he asked her as to where has she kept Rs.5 Lakhs, which was brought from her parents house and demanded it to be given to him. She replied that her parents' financial condition is poor, so she did not fetch that amount. That time, her husband took her out of the car on Fardapur Road and started to beat her there. By-passers were gathered and they tried to convince her husband. Sarpanch of Fardapur also convinced her husband, but he did not listen. Therefore, Sarpanch called the police and told him to leave her to her parents house.

8. The informant further averred in her report that, on 18.05.2022, a meeting of the Charmakar Samaj was arranged. In said meeting, her husband said that he will not cohabit with her, she is lunatic and then he left the meeting. Her husband was not responding to her phone call. Therefore, she made an application to Women Grievance Redressal Cell at Jalgaon. However, her husband refused to allow her to cohabit with him. Thereafter, she lodged the report.

9. Learned Advocate for the applicants submitted that applicant No.4 is falsely implicated in the crime. General and vague allegations are made against this applicant. Though some specific incidents of cruelty are stated by the informant in the report and by

the witnesses in their statements, the fact of cruelty is not establishing from the entire charge-sheet against this applicant. The false allegation of demand of Rs.5 Lakhs is made against this applicant. The essential ingredients of offences punishable under Sections 498-A, 323, 504, 506 of I.P.C. are not establishing against this applicant. If he is compelled to face the trial, it would certainly be an abuse of process of Court. It is lastly prayed to allow the application.

10. Learned APP for the State strongly opposed the application and submitted that there is a strong evidence of cruelty against applicant No.4. His name is mentioned in the F.I.R. The applicant treated the informant with cruelty by demanding money and caused physical and mental cruelty and compelled her to reside to her parents house. It is lastly prayed to reject the application.

11. Learned Advocate for respondent No.2/informant also strongly opposed the application and submitted that the applicant is involved in the crime of treating the informant with cruelty by demanding money. The specific incidents are stated by the informant in the report that this applicant demanded Rs.5 Lakhs for starting a private class. The name of the applicant is mentioned in the F.I.R. There are statements of witnesses corroborating with the version of

the informant. There is a strong evidence against this applicant to proceed further with the trial. Therefore, the application deserves to be rejected as there is a reliable evidence against the applicant to establish the requisites of offences punishable under Sections 498-A, 323, 504, 506 of I.P.C. He prayed to reject the application.

12. In the context of this case, it would be relevant to refer the following authorities :

i) ***Mohammad Wajid and Another Vs. State of U.P. and Another, reported in 2023 SCC Online SC 951; 2023 INSC 683,*** wherein the Hon'ble Supreme Court has laid down the law as follows :-

“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....”

ii) ***CBI Vs. Aryan Singh, reported in 2023 SCC Online SC***

379, in which the Hon’ble Supreme Court has held as follows :-

“10. As per the cardinal principle of law, at the stage of discharge and/or quashing of the criminal proceedings, while exercising the powers under Section 482 of Cr.P.C., the Court is not required to conduct the mini trial.”

iii) ***Kim Wansoo Vs. State of Uttar Pradesh & Ors., reported***

in 2025 SCC Online SC 17, wherein the Hon’ble Supreme Court, in para.9 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.

13. We have perused the charge-sheet, particularly the report and statements of witnesses. The witnesses have stated similar facts as stated by the informant in her report. There is allegation against applicant No.4 that he picked up the ornament box, which were taken away by parents-in-law of the informant. No any specific incident is

stated by the informant as to when he demanded Rs.5 Lakhs to her for starting a private tuitions. General and vague allegations are made against the applicant. The role of this applicant is not spelt out as to what way he treated the informant with cruelty by demanding Rs.5 Lakhs on specific point of time. The informant was residing with her husband and not with applicant No.4. Merely because the name of applicant No.4 is mentioned in the report, proceeding against him is not justifiable.

14. Considering all the aspects and above reasons and law laid down in the authorities of ***Mohammad Wajid, CBI Vs. Aryan Singh and Kim Wansoo*** (Supra), if applicant No.4 is compelled to face the trial, it would certainly be an abuse of process of 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 process of Court against applicant No.4. The application deserves to be partly allowed. Hence, the following order is passed.

ORDER

- I) The application is dismissed as withdrawn against applicant Nos.1 to 3.

- II) The application stands allowed to the extent of applicant No.4.
- III) The First Information Report and charge-sheet in R.C.C. No.335 of 2023, pending before the learned Chief Judicial Magistrate First Class, Jalgaon, arising out of Crime bearing No.0435 of 2022, registered with Jilha Peth Police Station, Dist. Jalgaon, dated 12.06.2022, for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860 stands quashed against applicant No.4.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asd