



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

CRIMINAL APPLICATION NO.4477 OF 2023

1. Dnyandeo Ashruji Jagare (Father in Law)
Age: 69 years; Occ: Retired,
R/o T. Point, Sindhkhed Raja
District Buldhana
 2. Gajanan Dnyandeo Jagare (Brother in Law)
Age: 43 Years; Occ: Service,
R/o: Police quarters, Washim
 3. Varsha Manohar Kharat (Sister in Law)
Age: 40 Years, Occ: Housewife,
R/o Ganseh Nagar, Akluj,
Tq. Malshiras District Solapur.
 4. Meena Premshwar Zarhad (Sister in Law)
Age: 37 Years, Occ: Housewife
R/o: Parad, Tq. Ambad
District Jalna
- ... Applicants

Versus

1. The State of Maharashtra
Through its Police Station
Tirthpuri, Jalna
 2. Varsha w/o Shriram Jagare
Age: 28 Years, Occ: Housewife,
R/o: Laxminarayan Lane, Tirthpuri
Tq. Ghansawangi, District Jalna
- ... Respondents

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Mr. Cedric D. Fernandes, Advocate for Applicants
Mr. V. K. Kotecha, APP for Respondent No.1/State
Mr. Nilesh Bhagwat, Advocate for Respondent No.2 (Appointed)
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**CORAM : SMT. VIBHA KANKANWADI AND
SMT. MANJUSHA DESHPANDE, J.J.**

DATE : 10th FEBRUARY, 2025

PER COURT (PER SMT. MANJUSHA DESHPANDE, J.):

1. Applicants are the father-in-law, brother-in-law and sister-in-law of respondent No.2 who has lodged Crime No.54/2023,

registered with Tirthpuri Police Station, Jalna, on 19/10/2023, for offence punishable under Sections 498-A, 323, 504, 506 r/w 34 of the Indian Penal Code.

2. Applicants have approached this Court under Section 482 of the Code of Criminal Procedure for quashing of the FIR to their extent on the ground that FIR does not disclose any *prima facie* offences against applicants. The other ground which is raised by applicants is that there is a huge delay in lodging the FIR, which is not explained by respondent No.2. Therefore, imaginary and concocted story has been made by the informant just for the sake of causing harassment to applicants.

3. Respondent No.2 has filed complaint alleging that she was married to one Shriram Dnyandev Jagare on 27/04/2014. Dowry of Rs.7,50,000/- Lakhs was given to applicants in marriage along with household articles. Her husband was employed as a Health Worker at Pachgani, District Satara and he used to visit hometown after gap of 1 to 1.5 month. Since he was not visiting frequently, on 01/08/2014 respondent No.2 requested her father-in-law to allow her to cohabit with her husband at the place of his employment. Thereafter, father-in-law threatened her and her husband assaulted her and refused to take her along with him. It is alleged that her brother-in-law Gajanan also assaulted her. Her two sisters-in-law used to instigate her in-laws to harass her. She was also being harassed since she was not able to

conceive a child. On this ground also she was mentally and physically harassed by the in-laws and was driven out of her house. When she was driven out of her house, demand of Rs.2,50,000/- Lakhs was made by the applicants for allowing her to come back to her matrimonial house to resume cohabitation. She was given ill-treatment and was given threats. According to her, various efforts have been made for compromise by her as well as her parents, but in vain. According to respondent No.2, from 21/12/2021 she is residing at her maternal house.

4. It is the contention of applicants that allegations against them are frivolous and lodged with malafide intention. In fact, applicants have lodged N.C. No.18/2022 against informant and her relatives on 19/01/2022, with Sindhakhed Raja Police Station, District Buldhana, under Section 507 of Indian Penal Code. It is stated that respondent No.2 informant has left her matrimonial house as per her own will and wish. It is further contended that applicants have sent notice to informant through an Advocate on 05/09/2022, wherein he has categorically stated that informant herself had left her matrimonial house, which is accepted by respondent No.2 in her reply to the notice. When husband of informant was suffering from Covid-19 symptoms and was admitted for that purpose, informant left the house with her son without informing husband or in-laws who were staying nearby. Applicants never stayed along with respondent No.2. She was staying

separately with her husband. Husband of informant has filed Hindu Marriage Petition before the Civil Judge, Senior Division, Mehkar, on 11/04/2023.

5. It is submitted that the allegations made in the FIR are devoid of any substance. There are no specific instances given in support of the allegations and commission of offences punishable under Sections 498-A, 323, 504, 506 r/w 34 of Indian Penal Code. The allegations are supported neither by medical evidence nor ocular evidence. No incident stating that there was any demand of dowry or harassment to informant or her parents from applicants has been narrated in the FIR. Allegations made are bereft of any details. So far as the incident alleged to have occurred on 01/08/2014 is concerned, there is no evidence to support the same. Had there been any substance in the allegations of respondent No.2, the respondent No.2 would have filed complaint in respect of the assault immediately. According to applicants, there is a huge delay of 668 days in lodging the FIR, which is not explained by informant.

6. We have heard learned advocate for applicants, learned advocate appointed to represent respondent No.2 as well as learned APP for the State. Since no appearance was caused on behalf of respondent No.2, learned advocate Mr. Nilesh Bhagwat, is appointed through High Court Legal Services to represent respondent No.2.

7. Learned APP has opposed the application on the ground that in the FIR there are specific allegations against each of the applicants. Therefore, relief claimed by applicants herein may not be granted and the Criminal Application be dismissed.

8. Upon hearing the respective parties and after going through the FIR and documents placed on record, it is evident that the marriage of respondent No.2 was solemnized on 27/04/2014. She has narrated incident of 01/08/2014 in the FIR and according to her she has been residing separately from her in-laws and husband since 21/12/2021. The relevant dates mentioned above apparently disclose that even after applicants and her husband started residing separately from her, there is delay of two years in lodging the FIR, which has not been explained by respondent No.2. Even if the incident of 01/08/2014 which according to her is illustrative of the ill-treatment meted out to her by her husband and in-laws is considered, there is delay of more than 9 years in filing complaint for ill-treatment meted out to her on 01/08/2014. Respondent No.2 has failed to assign any reason as to the delay caused in filing complaint belatedly.

9. On going through the allegations made against applicants, it is evident that as against applicant No.1 father-in-law the only allegation seems to be that when she requested to allow her to accompany her husband to his place of work, applicant No.1 threatened her. However, there are no details as to what was the

threat. There is merely an allegation about threat and abusive language used against her, but no details about what abuses and threats are mentioned in the complaint. Similarly, the allegation made against applicant No.2 brother-in-law is that he has assaulted informant. However, no details about assault are mentioned in the complaint, as to in what manner she is assaulted and what injury is caused to her. Even the allegations against applicant Nos.3 and 4 sisters-in-law, who reside at Akluj and Ambad respectively, are general omnibus allegations about mental and physically cruelty and instigation for ill-treatment meted out to respondent No.2. It is evident that both applicant Nos.3 and 4 are married and do not reside with the in-laws of respondent No.2. Even the allegation of demand of dowry is not supported by any evidence.

10. Section 498-A of Indian Penal Code provides that the husband or the relative of husband of a woman, subjects such woman to cruelty shall be punished with imprisonment. For that purpose 'Cruelty' means any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health whether mental or physical of the woman; or harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand. Section 323 provides punishment for voluntarily causing hurt to other person.

Section 504 provides punishment to whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence. Section 506 provide punishment to whoever commits the offence of criminal intimidation.

11. Upon going through the provisions of Indian Penal Code, none of the provisions which have been invoked by filing FIR are attracted from the allegations and narration of complaint. Applicants have placed on record copy of Hindu Marriage Petition filed before the Civil Judge, Senior Division, Mehkar, on 11/04/2023 and the FIR is lodged on 19/10/2023. Therefore, present complaint seems to be the counter-blast to the said petition filed by husband of respondent No.2. Even assuming that it is not a counter-blast, the contents of FIR do not disclose any offence made out under Sections 498-A, 323, 504, 506 r/w 34. Though it is a settled position of law that powers under Section 482 should be sparingly exercised, however, considering the contents of FIR no *prima facie* case is made out by respondent No.2 against present applicants. Allegations made in the FIR do not disclose commission of any offences which are made out against applicants. The delay caused in filing the complaint implies that complaint has been filed only to cause harassment to applicants. Even in the FIR respondent No.2 has not offered any plausible explanation for inordinate delay caused in lodging FIR.

12. In the aforesaid background, applicants have filed the application to quash the FIR invoking powers of this Court under Section 482, which confers inherent powers to this Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. In our opinion, the present case is a case wherein inherent powers of this Court are required to be exercised to meet the ends of justice and prevent abuse of process of law.

13. The case of applicants stands fully covered by illustrations given in case of ***State Of Haryana And Others vs. Ch. Bhajan Lal and Others, reported in 1992 SCC (SUPP) (1) 335***. The broad categories by way of illustration has been given in paragraph No.8 of the judgment, which reads thus:-

“8.1. In the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code of Criminal Procedure, the following categories of cases are given by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:

(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

14. Similar view has been taken by this Court in case of ***Amarlal Hasomal Lalwani and Others Vs. State of Maharashtra***, reported in **2024 SCC Online Bom 219**, decided on 18/01/2024. In

identical facts and circumstances this Court has observed that in view of vague statement about demand of car and cash from her parents, the informant has not given any further details, particularly the year in which such demand was made. Considering the delay in lodging FIR the allegations of cruelty are stale allegations. The allegations levelled in the FIR even if accepted in totality, do not disclose commission of cognizable offence.

15. The observation in above judgments are squarely applicable to the facts of the present case. Therefore, considering that applicants would be required to face trial with vague allegations, which would amount to abuse of process of Court, in order to prevent miscarriage of justice, Crime No.54/2023, registered with Tirthpuri Police Station, Jalna, on 19/10/2023, for offence punishable under Sections 498-A, 323, 504, 506 r/w 34 of the Indian Penal Code, is quashed and set aside to the extent of applicants herein. The criminal application is allowed in above terms.

16. Fees of the learned advocate appointed to represent respondent No.2 is quantified as per the rules and shall be paid by the High Court Legal Services, Sub-Committee, Aurangabad, within a period of six weeks from today.

(SMT. MANJUSHA DESHPANDE, J.) (SMT. VIBHA KANKANWADI, J.)