



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4481 OF 2023

1. Shaikh Majeed Shaikh Musa,
Age 44 years, Occ. Business,
(Brother in law of R.No.2)
2. Rizwana Begum Shaikh Majeed
Age 38 years, Occ. Housewife
(Sister in law of R.No.2)
3. Shaikh Baseed Shaikh Musa
Age 43 years, Occ. Business,
(Brother in law of R.No.2)
4. Shama Begum Shaikh Baseed
Age 34 years, Occ. Housewife,
(Sister in law of R.No.2)

All R/o. Hamidiya Colony,
Near Khizra Masjid, Itwara Nanded
Tq. and district Nanded

...Applicants

Versus

1. The State of Maharashtra
Through Police Station Officer
Nanded Police station, Nanded
Tq. and district Nanded
2. Uzma Khan w/o Shaikh Mujahid
Age 32 years, Occ. Housewife
R/o. C/o. Zahed Khan, 8-4-331,
Siddhanathpuri Chaufala
Pani Ki Taki, Itwara, Nanded
Tq. And district Nanded

...Respondents

.....
Mr. Sudheer Zambare, advocate for the applicants
Mrs. Rashmi P. Gour, A.P.P. for respondent No.1
.....

**CORAM : SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.
DATED : 20th MARCH, 2025**

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

1. Heard learned advocate for both sides.
2. This is an application filed for quashing of the criminal case bearing R.C.C. No. 917 of 2020 pending before the learned Chief Judicial Magistrate, Nanded, District Nanded arising out of the F.I.R. vide C.R. No. 415 of 2020 registered with Nanded Police Station, District Nanded, for the offences punishable under Sections 498-A, 109, 323, 504, 506 r.w. 34 of Indian Penal Code.
3. The informant – respondent No.2 averred in the report that applicant Nos.1 and 3 are brothers-in-law of the informant, whereas applicant Nos.2 and 4 are sisters-in-law of the informant. The informant further averred in the report that she married with the brother of the applicants on 22.7.2018. Initially, for four months, she was treated well. Thereafter, the applicants and husband of the informant started to harass her by saying that in her marriage, the motor cycle was not given. The marriage was not properly performed by incurring more expenses. The applicants and her husband used to keep her on starvation as the motor cycle was not given. They were beating her and threatening to kill her. They demanded an

amount of Rs.15,00,000/- for opening electrical shop. All these applicants frequently made phone calls to her husband asking him to demand an amount of Rs.15,00,000/- required for opening new electrical shop and instigating to ill-treat her.

4. The informant further averred that on 4.3.2019 in order to start the electrical shop, the applicants and her husband slapped her and dragged her out of the house. They said unless she brings Rs.15,00,000/- she should not come to their house. Since then she is residing with her parents.

5. On 27.11.2019, the informant begotten a girl child. She informed that fact to her husband and the applicants but they said that unless she brings the amount of Rs.15,00,000/- they will not allow her and her daughter to come to their house and cut the phone call. The informant therefore, lodged the report on 14.6.2020. Accordingly, the crime was registered against the applicants and her husband.

6. Learned advocate for the applicants submitted that no specific allegations are made against the applicants in the report. All allegations are omnibus and general in nature. The report is filed after seven months 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 the 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. There was consistent demand of Rs.15,00,000/- for opening new electrical shop. 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, 109, 323, 504, 506 r.w. 34 of I.P.C. It is 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. There are statements of witnesses, particularly the parents of the informant

and other relatives. They have also made similar allegations in their statements that the applicants treated the informant with cruelty and instigated her husband to beat her for demanding Rs.15,00,000/- for opening new electrical shop. On bare perusal of the statements of witnesses, it is clear that the vague, general and omnibus allegations are made against the applicants. The last incident though stated to have occurred on 4.3.2019, about it also there are general allegations of beating by the applicants. No injury certificate is produced on record. The vague and omnibus allegations made against applicants are not sustainable. There are allegations against the husband of the informant. No specific incident is stated as to when each of the applicants have treated the informant with cruelty. There is no evidence of common intention though Section 34 of I.P.C. is invoked. From the report, essential ingredients of Sections 498-A, 109, 323, 504, 506 r.w. 34 of I.P.C. are not establishing. As held in the case of **Kim Wansoo Vs. State of Uttar Pradesh & Ors., (supra)** there is no substance in the report and the charge sheet. In such facts and circumstances of the case, if the applicants are compelled to face the trial, 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 and the criminal case. Therefore, in the interest of justice, we are inclined to allow the application. Hence, we pass the following order:-

O R D E R

- I. Criminal application stands allowed.
- II. The R.C.C. No. 917 of 2020 pending before the learned Chief Judicial Magistrate, Nanded, District Nanded arising out of the F.I.R. vide C.R. No. 415 of 2020 registered with Nanded Police Station, District Nanded, for the offences punishable under Sections 498-A, 109, 323, 504, 506 r.w. 34 of Indian Penal Code, are quashed as against applicants.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

rlj/