



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 4587 OF 2023

- 1) Suraj Tulshiram Mali,
Age 29 Years, Occ: Business
- 2) Tulshiram Manohar Mali
Age 61 Years, Occ: Business
- 3) Lalita Tulshiram Mali
Age 52 Years, Occ: H.H.
All R/o Near Auradik College,
by pass road, Osmanabad,
Dist: Osmanabad.
- 4) Swati Atul Bhosale
Age 32 Years, Occ: Business
R/o Tambri Vibhag, Osmanabad,
Dist: Osmanabad
- 5) Vishakha Tulshiram Mali
Age 25 Years, Occ: Advocate
R/o Near Auradik College,
by pass road, Osmanabad,
Dist: Osmanabad..

... Applicants

Versus

- 1) The State of Maharashtra,
Through City Police Station, Osmanabad,
Dist: Osmanabad.
- 2) Bassapa Babruwan Bansode,
Age 50 Years, Occ: Labour Work
R/o Surdi, Tq & Dist: Osmanabad,
Dist: Osmanabad.

... Respondents

...

Mr. Vivekanand V. Ingale, Advocate for Applicants.

Mr. S. A. Gaikwad, APP for Respondent No.1.

Mr. Abhinay Dilip Khot, Advocate for Respondent No.2. (Appointed Through Legal Aid).

...

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

DATE : 20th March, 2025.

ORDER: (Per Sanjay A. Deshmukh, J.)

. Heard the learned advocates for the respective parties.

2 This is an application under Section 482 of the Code of Criminal Procedure, 1973 (for short "the Cr.P.C.") for quashing the Charge Sheet No.91 of 2022 filed in Session Case No.126 of 2023, pending in the Court of learned Session Judge, Osmanabad, for the offences punishable under Sections 306, 304-B and 498-A read with 34 of the Indian Penal Code, arising out of F.I.R. bearing C.R. No.279 of 2021, dated 18th October, 2021, registered with Osmanabad City Police Station, District Osmanabad, for the offences punishable under Sections 306 and 498-A read with 34 of the Indian Penal Code.

3 When this Court expressed disinclination to grant any relief to applicant Nos.1 to 3, the learned counsel for the applicants, on

instructions, seeks leave to withdraw the application of applicant Nos.1 to 3. Leave granted.

4 The informant averred in the report that approximately one year ago his eldest daughter Poonam alias Manisha eloped and married with accused No.1. Initially, the informant opposed the marriage, but later, he accepted it and gave his consent. After the marriage, Poonam started residing with the applicants. From September 2020, Poonam was treated with cruelty by the applicants. Applicant Nos.4 and 5 (unmarried sisters-in-law of Poonam) frequently insulted Poonam stating that her maternal family did not show them proper respect. Applicant Nos.4 and 5 insulting Poonam. Applicant Nos.4 and 5 demanded Rs.4,00,000/- and fifteen tolas gold to Poonam. Poonam was abused and beaten for that. Poonam told that fact to her father i.e. informant, her mother and her maternal uncle Vijay Mali many times. When the informant said that due to financial constraints, he is unable to fulfill their demands, the applicants started to harass Poonam.

5 On 18th October, 2021, around 02:00 pm, the informant's wife Ganga informed him that Poonam is admitted in the hospital on account of illness. The informant, therefore, went in the civil hospital. When he went there, father-in-law Tulshram Mali told him that Poonam

was no more and informant came to know that she had committed suicide by hanging by rope in the house. Therefore, the informant immediately lodged the report against the applicants that they treated Poonam with cruelty.

6 The learned counsel for the applicants submitted applicant Nos.4 and 5 are falsely implicated in the crime. Applicant No.4 is married sister-in-law of Poonam and residing at Tambri Vibhag, District Osmanabad. The name of applicant No.5 is falsely stated by the informant in the report. There is no such specific evidence against applicant Nos.4 and 5 as to when they treated Poonam with cruelty. Vague allegations are made against them. The essential ingredients of Sections 306, 304-B and 498-A of the IPC are not establishing against applicant Nos.4 and 5. In such situation, if applicant Nos.4 and 5 are directed to face the trial, they will certainly suffer. He lastly prayed to allow the application.

7 The learned APP for the State strongly opposed the application and submitted that the applicants are involved in the serious crime. Their names are mentioned in the report. They have committed anti-social crime. They demanded money to the informant. They abetted Poonam to commit suicide. He lastly prayed to reject the application.

8 The learned counsel for the informant / respondent No.2 also strongly opposed the application and submitted that the names of the applicants mentioned in the report. They treated Poonam with cruelty by demanding Rs.4,00,000/- and fifteen tolas gold. They taunted and humiliated Poonam. They abetted Poonam to commit suicide. He lastly prayed to reject the application.

9 Here, it is relevant to refer to the decision of the Honourable Supreme Court in ***Mohammad Wajid and Another Vs. State of U.P. and Another***, reported in, ***2023 SCC Online SC 951; 2023 INSC 683***, whereunder the Honourable Supreme Court 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 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....”

10 A reference also can be made to the judgment in the case of **CBI Vs. Aryan Singh**, reported in, **2023 SCC Online SC 379**, in which the Honourable Supreme Court held that as under:-

“Para 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 Cr. P.C., the Court is not required to conduct the mini trial.”

11 We have perused the report and the charge-sheet. To prove suicidal death, the prosecution mainly relied upon the postmortem report, in which the probable cause of death is given as “Asphyxia Due To Hanging”.

12 Suicidal death is not disputed. The statements of the relatives of Poonam are similar to that of the report, in which the allegations of harassment to Poonam is alleged to have caused by applicant Nos.4 and 5, her husband and in-laws. It is not specifically stated as to when applicant No.4 (married sister-in-law of Poonam) demanded that amount to Poonam and when that incident took place. Same is the position of applicant No.5. Vague and omnibus allegations are made against applicant Nos.4 and 5 that they demanded Rs.4,00,000/- and fifteen tolas gold ornaments to Poonam and treated her with cruelty. The statements of witnesses are of

general nature, as far as allegations of demand of Rs.4,00,000/- and fifteen tolas gold is concerned. In such situation and on such vague and omnibus allegations, if applicant Nos.4 and 5 are directed to face the trial, it would certainly be an abuse of the process of Court. We are therefore, inclined to allow the application to the extent of applicant Nos.4 and 5 by exercising our inherent powers under Section 482 of the Cr.P.C. The application is, therefore deserves to be partly allowed in favour of applicant Nos.4 and 5. Hence, the following order:-

ORDER

- I. The application of applicant Nos.1 to 3 stands dismissed as withdrawn.
- II. The Charge Sheet No.91 of 2022 filed in Session Case No.126 of 2023, pending in the Court of learned Session Judge, Osmanabad, for the offences punishable under Sections 306, 304-B and 498-A read with 34 of the Indian Penal Code, arising out of F.I.R. bearing C.R. No.279 of 2021, dated 18th October, 2021, registered with Osmanabad City Police Station, District Osmanabad, for the offences punishable under Sections 306 and 498-A read with 34 of the Indian Penal Code, stands quashed and set aside to the extent of applicant Nos.4 and 5 (Swati Atul Bhosale and Vishakha Tulshiram Mali) only.

III. The fees of Mr. Abhinay D. Khot, learned appointed counsel for respondent No.2 is quantified at Rs.7,000/- and it is to be paid through the High Court Legal Services Sub-Committee, Aurangabad

IV. The application stands disposed of.

[SANJAY A. DESHMUKH, J.] [SMT. VIBHA KANKANWADI, J.]

nga