



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

CRIMINAL APPLICATION NO. 392 OF 2024

1. Ashish S/o Ankush Hadule,
Age: 36 years, Occ: Service,
R/o. Moti Nagar, Latur, Tal. & Dist. Latur.
2. Dhondubai W/o Ankush Hadule,
Age: 60 years, Occ: Household,
R/o. As above.
3. Pooja D/o Ankush Hadule,
Age: 28 years, Occ: Student,
R/o. As above.
4. Aarati W/o Nitin Bhalke,
Age: 33 years, Occ: Household,
R/o. Waswadi, Latur, Tal. & Dist. Latur.
5. Mangesh S/o Nagesh Shinde,
Age: 40 years, Occ: Service,
R/o. At Post Bokangaon,
Tal. & Dist. Latur.

... Applicants

Versus

1. The State of Maharashtra,
Through Police Inspector,
Gandhi Chowk Police Station,
Latur, Tal. & Dist. Latur.
2. Priya W/o Ashish Hadule,
Age: 28 years, Occ. Household,
C/o. Satish S/o Bhaskar Suryawanshi,
R/o. At Present Tungi (Khurd),
Tal. Ausa, Dist. Latur.

... Respondents

...

Mr. Mahesh S. Bhosale, Advocate for Applicants.

Mr. G. A. Kulkarni, APP for Respondent / State.

Mr. A. A. Joshi, h/f Mr. Sharad V. Natu, Advocate for Respondent No.2.

...

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

RESERVED ON : 23rd April, 2025.

PRONOUNCED ON : 30th April, 2025.

J U D G M E N T : (Per Sanjay A. Deshmukh, J.)

1 Rule. Rule made returnable forthwith. With the consent of the learned Advocates appearing for the parties, heard finally at the stage of admission.

2 This application is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short “the Cr.P.C.”) for quashing of the FIR (for short the “report) bearing Crime No.602 of 2021, dated 11th November, 2021, registered with Gandhi Chowk Police Station, District Latur, for the offences punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code, 1860, as well as the consequential charge-sheet and proceedings in RCC No.2154 of 2021, pending in the Court of learned Chief Judicial Magistrate, Latur.

3 Applicant No.1 is the husband of informant / respondent No.2. Applicant No.2 is the mother-in-law and applicant Nos.3 and 4 are the sisters-in-law of the informant. Applicant No.5 is a friend of applicant No.1.

4 The informant averred in the report that she married with applicant No.1 on 29th June, 2020. The expenses of that marriage were incurred by her father. Rupees eleven lakhs, 13 tolas gold ornaments and household articles were given in that marriage. Total expenses of that marriage, which were incurred by her father, was Rs.25,00,000/-. At the time of settlement of marriage, the applicants were demanding dowry of Rs.16,00,000/- and 15 tolas gold. But it was settled on 13 tolas gold. After marriage, for about two months, the informant was treated well. Thereafter, the applicants made many demands to her and started to harass her. All the applicants were demanding remaining dowry amount of Rs.2,00,000/-and 2 tolas golds. They were treating her with cruelty by keeping her on starvation. They used to beat her by kick and fist blows and abused her. They were threatening to kill her. Thereafter, on 2nd September, 2020, the informant went to her parents' home. Thereafter, some senior relatives of both the sides held many meetings. In those meetings, applicant No.1 (husband of the informant) used to say that he will take her back for cohabitation, but he was avoiding to do so.

5 The informant further averred that on 23rd March, 2021, she went for cohabitation. But when the applicants saw her, they abused her. They locked the house. Therefore, she went back to her parents' house.

6 The informant further averred that on 14th May, 2021, again she went for cohabitation. Applicant No.3 latched the house from inside and applicant No.2 locked the door from outside and went away. She was sitting outside the house. That time, her husband and applicant No.5 and applicant No. 2 came there. They abused and beat her and expelled her from there. She went to lodge the report but the matter was compromised. Her signatures were obtained on a bond of Rs.500/-under the pretext of reconciliation of dispute. The informant was willing to cohabit with applicant No.1. Therefore, she signed that bond.

7 The informant further averred that thereafter, applicant No.1 took her at Jamalpur, Taluka Ausa, District Latur, where he continued to beat her. When she questioned him about this behavior, he abused her again, beat her and said that he would not keep the informant with him and would give her a divorce as well as threatened to kill her. All the applicants expelled her from the house, therefore, she lodged the report on 11th November, 2021.

8 The learned counsel for the applicants submitted that the marriage of applicant No.1 was performed with the informant on 29th June 2020. They have gifted 15 tolas gold ornaments to the informant.

The informant did not allow applicant No.1 to have sexual intercourse after the marriage. On 23rd August, 2021, a notice was sent to the informant prior to lodging of the report, in which applicant No.1 has stated all the facts, which is part of the charge-sheet. He submitted that the informant has harassed the applicants. When she went to lodge the report before the compromise, she was residing with her husband. She had admitted in that compromise registered before the Notary that she was threatening to applicant No.1 that she will commit suicide. The marriage has not been consummated because of the adamant view of the informant. The essential ingredients of Sections 498-A, 323, 504 and 506 of the IPC are not establishing against the applicants. Applicant No.5 is not a relative of other applicants. He is a friend of applicant No.1 and hence is falsely implicated in the crime. The learned counsel submitted that false report and charge-sheet is filed against the applicants. In such circumstances, if the applicants are compelled to face the trial, it would certainly be an abuse of the process of the Court. He lastly prayed to allow the application.

9 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 treated informant with cruelty. He lastly prayed to reject the application.

10 The learned counsel for the informant / respondent No.2 also strongly opposed the application. He submitted that the names of the applicants are mentioned in the report. They are involved in serious crime. They have committed anti-social crime. He lastly prayed to reject the application.

11 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....”

12 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 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.”

13 We have perused the report and the charge-sheet, particularly, the statements of witnesses. The statements of witnesses are similar to the informant's case. The admitted fact is that the informant has filed Criminal M.A. No. 32 of 2023 under Section 12 of the Protection of Women from Domestic Violence Act, 2005. The informant has averred in the report about the earlier incident particularly the incident dated 2nd September, 2020, that because of harassment of applicants, she went to her parents' house. Thereafter, meetings were held. Another incident stated by the informant is the incident dated 23rd March, 2021, in which she has stated that she went for cohabitation, but the applicants locked the door while abusing her and they went away. Therefore, she came back to reside with her parents at her parents' house. On the incident dated 14th May, 2021, when she went for cohabitation, applicant No.3 latched the door from

inside and applicant No.2 locked the door of the house. Therefore, she sat outside the house. Thereafter, applicant Nos.1, 2 and 5 came there and they abused and beaten her and expelled her from that house. Thereafter, she went to the police station for lodging the report. That time, her husband said that he will cohabit with her and he obtained her signature on a bond of R.500/- under the pretext of reconciliation.

14 Admittedly, the bond i.e. compromise is executed between applicant No.1 and the informant before the Notary, in which the informant has admitted she had threatened to commit suicide, but now she is ready to cohabit with her husband, the family members of applicant No.1 will not interfere in the marital life of both of them. She will not give such threats again. The said compromise was executed on 3rd June, 2021.

15 The informant's story about the last incident is that she and her husband / applicant No.1 were residing at Jamalpur, Taluka Ausa, District Latur. Applicant No.1 was frequently beating her and when she questioned him as to why he is beating her, he said that he will not allow her to cohabit with him and he will give divorce to her. He abused, beaten and threatened to kill her. Lastly, she has stated that all the applicants expelled her from the house. The incident of compromise took place on 3rd June, 2021. Thereafter, the informant and her husband were residing at Jamalpur, Taluka Ausa, District

Latur. It is alleged that applicant No.1 was beating her frequently and he was willing to give divorce to her and refused to cohabit with her. This last incident does not establish the essential ingredients of Sections 498-A, 323, 504 and 506 of the IPC against the applicants.

16 As far as earlier incidents are concerned, those are vague, though supported by witnesses, who are relatives of the informant. Those also do not establish the cruelty as contemplated by Sections 498-A, 323, 504 and 506 of the IPC. The report is lodged on 11th November, 2021 and notice was sent to the informant on 23rd August, 2021. This shows that the report has been lodged afterthought. General and vague allegations are made against the applicants. It is not disputed fact that said marriage has not been consummated. The allegations of harassment on the part of the informant is made in the notice sent by applicant No.1 to the informant prior to lodging of the report. If all these aspects are considered, the informant's allegations of cruelty are not establishing either from the report or statements of the witnesses against applicant Nos.1 to 4. Vague and omnibus allegations are made against applicant No.4, who is residing with her husband. In such circumstances, if applicant Nos.1 to 4 are compelled to face the trial, they would certainly suffer and it would be an abuse of the process of the Court. Therefore, their application deserves to be allowed.

17 Applicant No.5 is admittedly a friend of applicant No.1. He is not a relative of the husband of informant in terms of Section 498-A of the IPC. Here it would be appropriate to consider the law laid down in the case of ***U. Suvetha Vs. State by Inspector of Police and Anr, 2009 (6) SCC 757***, in which the Honourable Supreme Court has held that neither a girl friend nor a concubine is a relative of the husband within the meaning of Section 498-A of I.P.C., since she is not connected to the husband by blood or marriage. The same view has been reiterated by the Honourable Supreme Court in the case of ***Sunita Jha Vs. State of Jharkhand and another, 2010 (10) SCC 190*** as well as this Court in the case of ***Deepika Hanmant Zanjurne Vs. State of Maharashtra, through the Police Inspector and another, 2021 SCC Online Bom 6852***.

18 In view of the law laid down in the above authority and the ambit of scope of Section 498-A of the IPC, if applicant No.5 is made to face the trial, it would certainly be an abuse of the process of the Court. His application also deserves to be allowed.

19 Considering the entire facts and circumstances of the case, we are inclined to allow the application in entirety by exercising our inherent powers under Section 482 of the Cr.P.C. in the interest of justice to prevent the abuse of the process of Court. The application,

therefore, deserves to be allowed. Hence, the following order:-

ORDER

- I. The application is allowed.
- II. Crime No.602 of 2021, dated 11th November, 2021, registered with Gandhi Chowk Police Station, District Latur, for the offences punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code, 1860, as well as the consequential charge-sheet and proceedings in RCC No.2154 of 2021, pending in the Court of learned Chief Judicial Magistrate, Latur, stands quashed as against all the applicants.
- III. Rule is made absolute in the above terms.

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

nga