

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL WRIT PETITION NO. 1981 OF 2024**

1. Abhishek Vishwanath Banagunde  
Age : 32 Years, Occ.: Private Service,  
R/o. Shivpuri Road, Ram Nagar, Omerga,  
Dist. : Osmanabad
2. Sou. Kasturi Vishwanath Banagunde  
Age : 55 Years, Occ.: Teacher  
R/o. Shivpuri Road, Ram Nagar, Omerga,  
Dist. : Osmanabad
3. Vishwanath Virrappa Banagunde  
Age : 61 Years, Occ.: Nil  
R/o. Shivpuri Road, Ram Nagar, Omerga,  
Dist. : Osmanabad
4. Prasad Vishwanath Banagunde  
Age : 20 Years, Occ.: Education  
R/o. Shivpuri Road, Ram Nagar, Omerga,  
Dist. : Osmanabad
5. Kum. Pooja Vishwanath Banagunde  
Age : 23 Years, Occ. : Education  
R/o. Shivpuri Road, Ram Nagar, Omerga,  
Dist. : Osmanabad

...Petitioners

***Versus***

1. The State of Maharashtra  
Through Ichalkaranji Police Station
2. Sou. Purna Abhishek Banagunde  
Age : 27 Years, Occ. : Household  
R/o. Magdum Colony, Sangli Road,  
Ichalkaranji Tal.: Hatkanangale,  
Dist.: Kolhapur

...Respondents

Mr. Manoj Patil a/w Mr. Akash Murudkar i/by Mr. S.S. Borulkar,  
Advocate for the Petitioners.

Mr. R.M. Pethe, APP for Respondent No.1/State.

Mr. Dheeraj Patil, Advocate for Respondent No.2.

CORAM : RAVINDRA V. GHUGE  
&  
RAJESH S. PATIL, JJ.

DATE : 16<sup>th</sup> JANUARY, 2025

**ORAL JUDGMENT (Per Ravindra V. Ghuge, J.) :-**

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.
2. This matter was heard yesterday and posted today to enable the learned Advocate for the Petitioners to take instructions.
3. The learned Advocate for the Petitioners submits on instructions that Petitioner Nos.1, 2 and 3, namely Abhishek Vishwanath Banagunde, Kasturi Vishwanath Banagunde and Vishwanath Virrappa Banagunde, pray for leave to withdraw this Petition to their extent. As such, this **Writ Petition is partly disposed off** to the extent of Petitioner Nos.1, 2 and 3.

4. With regard to Petitioner Nos.4 and 5, we have considered the submissions of the learned Advocates for the appearing parties and the learned APP on behalf of Respondent No.1. Petitioner No.4 Prasad Vishwanath Banagunde is the brother-in-law of the Complainant and Petitioner No.5 Pooja Vishwanath Banagunde is the younger sister of Petitioner No.1 and sister-in-law of the Complainant. The learned Advocate for the Complainant submits that Respondent No.2 is strongly opposing this Petition, even to the extent of Petitioner Nos.4 and 5.

5. We have perused the First Information Report (for short 'FIR') No.0305 of 2023 registered with the Ichalkaranji Police Station, District Kolhapur, on 31<sup>st</sup> August, 2023. We find that the Complainant has alleged that Petitioner No.5 used to taunt her. With regard to Petitioner No.4, some what similar allegations have been made. Considering the statements in the FIR, we do not find that any offence punishable under Sections 498-A, 406, 323, 504, 506 and 34 of the Indian Penal Code (for short 'IPC'), has been made out. We have considered the law laid down by the Hon'ble Supreme Court in the cases of *Narinder Singh & Ors. V/s. State of Punjab & Anr.*<sup>1</sup> and *B.S. Joshi and others V/s. State of Haryana and Another*<sup>2</sup>.

<sup>1</sup> Criminal Appeal No.686 of 2014, decided on 27<sup>th</sup> March, 2014.

<sup>2</sup> 2003 (4) SCC 675.

6. In view of the above, this **Writ Petition is partly allowed** to the extent of Petitioner Nos.4 and 5, namely Prasad Vishwanath Banagunde and Pooja Vishwanath Banagunde, in terms of Prayer Clauses (b), (b-1) and (b-2), which read as under :-

*“b. This Hon’ble Court be pleased to issue appropriate writ, order and direction and to quash and set aside the FIR/C.R. No.305 of 2023 dt. 31/08/2023 registered with the Ichalkaranji Police Station for the offence punishable u/s.498-A, 406, 323, 504, 506, 34 of the Indian Penal Code, 1860.*

*b-1. This Hon’ble Court be pleased to issue appropriate order and direction and to quash and set aside Chargesheet No.40 of 2024 filed before Ld. JMFC, Ichalkaranji in Regular Criminal Case No.307 of 2024.*

*b-2. This Hon’ble Court be pleased to issue appropriate order and direction and to quash Regular Criminal Case No.307 of 2024 pending before Ld. JMFC, Ichalkaranji.”*

7. **Rule is partly made absolute in the above terms.**

**(RAJESH S. PATIL, J.)**

**(RAVINDRA V. GHUGE, J.)**