

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

CRIMINAL APPLICATION (APL) NO. 1659 OF 2024

1. Mr. Sachin Namdev Margale
Aged 38 years, Occ. Service ...
2. Mr. Pravin Namdev Margale
Aged 35 years, Occ. Service ...
3. Mrs. Usha Namdev Margale
Aged 57 years, Occ. House Wife ...
4. Mr. Namdev Ananda Margale
Aged 67 years, Occ. Pensioner
All R/o. B/303, Pagoda View CHS,
Ltd., Near Swami Samarth Temple,
Charkop Sector 8, Kandivali (W),
Mumbai 400 0067 ...
5. Mr. Prasad Shashikant Thavare
Aged 26 years, Occ. Service
R/o. Vadgaon Haveli, Tal. Karad
District Satara ... Applicants

V/s.

1. State of Maharashtra
At the instance of Charkop police station
2. Mrs. Savita Sachin Mangale
Aged 36 years, Occ. Self Employed
R/o. 806/C-15, Ambamata CHS Ltd.
Sector No.8, Charkop,
Kandivali (W), Mumbai 400 067 ... Respondents

Mr. Kunal Shirgire i/b Vikas Kolekar with Prashant Patole with Prakash Hiremath for the Applicants.

Ms. Sangeeta S. Shinde APP for the Respondent-State.

Mr. Ajinkya M. Udane, Appointed Advocate for Respondent No.2.

Mr. Chetan Rathod, PSI, Charkop police station.

**CORAM : BHARATI DANGRE &
SHYAM C. CHANDAK, JJ.**

DATE : 26th NOVEMBER, 2025

ORDER : (PER SHYAM C. CHANDAK, J.) :-

- 1) Present Application filed under Section 482 of the Code of Criminal Procedure seeking quashing and setting aside of an FIR bearing C.R. No.888 of 2022, registered with Charkop police station, Mumbai, under Sections 498A, 354 and 34 of the Indian Penal Code and consequent charge-sheet bearing R.C.C.No.PW/1444/2023, pending before the 24th Court of the Metropolitan Magistrate, Borivali.
- 2) Heard Mr. Kunal Shirgire, learned Counsel for the Applicants, Ms. Sangeeta Shinde, learned A.P.P. for Respondent No.1-State and Mr. Ajinkya Udane, learned appointed Counsel for Respondent No.2.
- 3) Applicant No.1 is the husband of Respondent No.2. Applicant No.2 is the brother and Applicant Nos.3 and 4 are the parents of Applicant No.1. Applicant No.5 is the maternal cousin of Applicant No.1.
- 4) On 30/09/2022, the Respondent No.2 filed an oral Report, therein it is stated that Respondent No.2 got married with Applicant No.1

on 26/12/2012. After the marriage, she went to cohabit in the family of the Applicants. It is alleged that about 10 to 15 days after the wedding, the Applicant No.1 insisted the Respondent No.2 to ask her father to transfer a plot of land in his name. The Applicant No.3 used to mentally harass her by taunting that her parents gave very few presents/gifts in the marriage. The Applicants used to force her to iron the clothes of the entire family and barred her from using household items like fridge, washing machine, television set, etc. It is alleged that she was not allowed to work or earn money and was denied medical treatment when ill. After giving birth to two daughters, her husband and in-laws allegedly quarreled with her and her parents for failing to deliver a male child. Therefore, she had suffered depression which lead her to attempt suicide thrice. It is alleged that in the year 2021, the Applicants assaulted Respondent No.2 with stick, fist and kick blows. Between November 2021 to January 2022, the Applicant No.5 used to beat her with fist and kicks and also outraging her modesty. Thus, since 26/12/2012 till filing of the Report, the Applicants treated her with cruelty. Therefore, the police registered the subject FIR. On completion of investigation, the police submitted the charge-sheet.

5) Mr. Shirgire, learned Counsel for the Applicants submitted that the allegations of cruelty relate to the period from 2012 to 2022. However, not even once, Respondent No.2 tried to file a Report of cruelty. According

to her, the Applicant No.5 used to outrage her modesty and beat her. Yet, the details of such instances were not promptly reported to the police. However, the allegations of cruelty were collectively reported to the police on 30/09/2022. The Report does not mention that the Applicants used to inform about the cruelty to her parents from time to time. All this indicates that the allegations in the Report is an afterthought and result of concoction. He submits that the allegations in the Report are vague and made out of vengeance. Therefore, causing the Applicants to face the prosecution for the alleged offences would be an abuse of process of law. As such the FIR and consequent proceedings be quashed and set aside.

6) In reply, the learned APP Ms. Shinde submitted that the narration in the FIR *prima facie* discloses the commission of the aforesaid offences. The Respondent No.2 was continuously harassed on one count or the other. She, however, tolerated the situation and attempted to cohabit with the Applicants in a hope that with the passage of time, everything would normalize. However, the cruelty did not stop. Therefore, she filed the belated Report, which, at this nascent state, may not be dismissed outright. She submitted that the Applicant No.5 added to her harassment by outraging the modesty of Respondent No.2 and that, she had no reason to make such false allegations. As such, the Application is devoid of merit.

Mr. Udane, learned appointed Counsel supported these

submissions.

7) We have considered these submissions and perused the material on record. We find that although various allegations have been made against the Applicants, the same are vague and general in nature. For instance, no details are provided regarding the plots of land owned by the father of Respondent No. 2. Similarly, the Report omits how Applicant No.3 taunted her for giving few presents in the marriage. It is alleged that the Applicants did not take Respondent No. 2 for medical treatment whenever she fell sick, however, the specific dates when she was sick and the details of the sickness are not discernible from the Report. The details of place and date when the Respondent No.2 tried to commit suicide, are also not mentioned in the Report. On the contrary, the Report mentions that, daily, the Applicant No.3 used to provide fast-food to the Respondent No.2's daughters. This fact indicates that the mother-in-law is of caring nature. As alleged, in the year 2021, the Applicants assaulted Respondent No.2 with stick, fist and kick blows. Nevertheless, it is not her case that she had sustained some injury on account of said assault.

Furthermore, it is alleged that, between November 2021 to January 2022, the Applicant No.5 had outraged the modesty of Respondent No.2, he used to beat her with fist and kicks. However, the date and time of said instances are not mentioned in the Report. Yet, this serious act of

Applicant No.5 is not promptly complained to the police.

8) We have noted that the cruelty was started immediately after the marriage and, it continued till January 2022. However, Respondent No.2 never filed any prompt police complaint of the cruelty. Thus, throughout, the conduct of Respondent No.2 is abnormal in the facts and circumstances of the case. Considering the matter as a whole, it appears that, since there were differences between the Applicants on the one hand and Respondent No.2 on the other, the latter filed the said Report with an intention to involve the entire family. This conclusion is fortified by the fact that although Applicant No.5 had outraged the modesty of Respondent No.2 between November 2021 to January 2022 and continued it, she never filed any complaint against the Applicant No.5 but clubbed his said act with the alleged cruelty caused by the other Applicants.

9) In the wake of above, we are of the opinion that mere omnibus statements have been made in the Report that the physical and mental cruelty was afflicted upon the Respondent No.2. It is trite that, 'cruelty' simplicitor is not enough to constitute the offence, rather it must be done either with the intention to cause grave injury or to drive the married woman to commit suicide or with intention to coercing her or her relatives to meet unlawful demands. As a result, if the impugned FIR and the resultant prosecution in the aforesaid case is allowed to be continued, in

our opinion, it would certainly be an abuse of process of law. It would unnecessary burden the Applicants, mentally and economically. In view of the aforesaid discussion, we are inclined to allow this Application. Hence, the following order is passed :-

ORDER

- (i) The FIR bearing C.R. No.888 of 2022 registered with Charkop police station, Mumbai for the offence punishable under Sections 498A, 354 and Section 34 of the Indian Penal Code at the instance of Respondent No.2 and consequent charge-sheet pending before the 24th Court, Metropolitan Magistrate Court, Borivali, Mumbai bearing No. PW/1444/2023, are quashed and set aside.
- (ii) Application is disposed of in the aforesaid terms.

(SHYAM C. CHANDAK, J.)

(BHARATI DANGRE, J.)

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