IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.785 OF 2024

1. Fatema w/o Chand Pathan
2. Chand s/o Gulab Pathan
3. Anisa w/o Mukim Patel
4. Mukim Bhikan Patel
5. Asma Shabbir Shaikh
6. Shaikh Shabbir Shaikh Najir
7. Najema w/o Iliyas Sayyed
8. Sayyed Iliyas Shaukat Ali
9. Farah Nayeem Shaikh
10. Shaikh Nayeem Shaikh Noor
11. Shaikh Taher Shaikh Maheboob
12. Hussainbi Shaikh Taher ...Applicants

Versus

1.The State of Maharashtra
2. Farah Jameer Pathan ...Respondents

...

Mr. A. R. Borulkar, Advocate for Applicants
Mr. S. P. Joshi, APP for Respondent - State

...

CORAM : R.M. JOSHI, J
DATE : OCTOBER 12, 2026

P. C. :

1. The record indicates that Respondent No. 2/informant was duly served, but remained absent. This indicates that Respondent No. 2 is not interested in opposing the application. Therefore, the application is heard and decided in the absence of Respondent No. 2.

2. By this application, applicants seek quashment of First Information Report bearing Crime No. 356/ 2022, registered at Phulambri Police Station, District Aurangabad for the offences punishable under

Sections 498-A, 494, 323, 504, and 506 of the Indian Penal Code, and quashment of charge-sheet bearing no. 192/2022, and order of issue process passed by the Learned Judicial Magistrate First Class, Phulambari dated 23.01.2023 in R.C.C. No. 13/2023.

3. It is a case of prosecution that the second marriage of the informant took place with Jamir Chand Pathan as per Muslim rites and customs. During the wedding, the informant's parents gave a gold ring, a silver ring, Rs. 51,000/-, and Rs. 4 lakhs worth of gold ornaments to the informant. The husband of the informant works as a Veterinary Doctor and M.R. A male child was born out of the said wedlock. The informant alleged that her husband suppressed his two previous marriages and that she was his third wife. Applicants harassed her for a demand of Rs. 5 lakhs from her parental home, subjecting her to physical and mental harassment, and assault upon non-fulfillment. The informant alleges that on 21.09.2022, when she visited Naygaon to collect her child's clothes, her husband and parents-in-law abused and physically assaulted her, while Applicant No. 11 and 12 instigated the husband over a phone call, which resulted in a quarrel between the informant and her husband. Subsequently, Kamran Enamdar, i.e. the brother of the informant, escorted the informant to her parental home. Since mediation at the Women's Redressal Cell, Aurangabad Rural failed, the informant lodged the present FIR.

4. Learned counsel for the applicants submitted that the informant falsely implicated the entire family and distant relatives of husband by making sweepingly vague, general, and omnibus allegations of harassment and cruelty. Applicant Nos. 3 to 12 reside separately from the matrimonial home of the informant and had no interference or involvement in the matrimonial life of the couple. It is contended that demand of dowry of Rs. 5 lakhs alleged only against the husband, whereas all other applicants have been roped in without attributing any specific overt act, date, time or distinct role. It is also contended that in the incident dated 21.09.2022, the allegations against the applicants are unspecific, and applicant nos. 11 and 12 are accused of telephonic instigation without any physical presence. Therefore, continuation of the criminal prosecution against the applicants is abuse of judicial process and the present application may be quashed in the interest of justice.

5. *Per contra,* learned APP opposed the application and submitted that the allegations in FIR disclose prima facie case against the applicants for offences involving physical and mental cruelty as well as illegal demand of dowry. It was contended that during the incident dated 21.09.2022 the informant was subjected to continuous harassment at her matrimonial home and was mentally abused and physically assaulted. It was further submitted that Applicant Nos. 11 and 12 actively participated in the commission of the offence by instigating the husband over the telephone,

which directly triggered the assault. It was argued that the veracity of the allegations against the applicant nos. 3 to 12 regarding separate residence are matters of defence that may be adjudicated during trial.

6. Perusal of the record indicates that the allegations against the applicants are general, and omnibus. The applicants no. 3 to 12 reside separately from the matrimonial home. Allegations regarding demand of dowry of Rs. 5 lakh is attributed solely to the husband of the informant. Furthermore, regarding the incident dated 21.09.2022, the allegations against the applicants lack specificity, and as against Applicant Nos. 11 and 12, who are distant relatives, the allegation is limited to telephonic instigation without any physical presence at the spot or independent corroborating material. In the judgment of Hon'ble Supreme Court in ***Kahkashan Kausar v.s State of Bihar (2022) 6 SCC 599 and Geeta Mehrotra v.s State of UP (2012) 10 SCC 741*** where the relatives who reside separately cannot be forced to face trial based on vague and omnibus allegation. In the judgment of the Hon'ble Supreme Court in case of ***State of Haryana v.s Bhajan Lal, (1992) SCC (cri) 426*** continuing criminal proceedings against the applicants would constitute a clear abuse of the judicial process.

7. In view of above, Application stands allowed in terms of prayer clauses 'B' and 'B-1'.

(R. M. JOSHI, J.)

Malani