



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

916 CRIMINAL APPLICATION NO. 1759 OF 2024

1. Harshita @ Harshada w/o Ishwardas
Vaishnav
2. Ishwardas s/o Surjudas Vaishnav
3. Bhagyesh @ Roshan Ishwardas Vaishnav,
4. Laxman Sitaram Vaishnav ... Applicants

VERSUS

1. The State of Maharashtra
Through the Police station Officer,
Kannad City Police Station
2. Neha Nilesch Bairagi ... Respondents

Mr. Pathan Sartaj Khan H., Advocate for Applicants
Mrs. M. L. Sangit, APP for Respondent No.1 State
Mr. Y. D. Kale, Advocate for Respondent No.2

CORAM : NEERAJ P. DHOTE, J.

Dated : 5th May, 2026

PER COURT :-

1. Heard the learned Advocate for the Applicants, learned APP for Respondent No. 1- State and learned Advocate for Respondent No.2-Informant. With their assistance, perused the papers on record.
2. By the present application under Section 482 of the Criminal Procedure Code, 1973 (for short 'Cr.P.C.'), the Applicants prayed for quashing the FIR bearing Crime No.222/2023, registered on 06.09.2023 with Kannad City Police Station, Kannad, District

Aurangabad for the offences punishable under Sections 498-A, 323, 504, 506, read with Section 34 of the Indian Penal Code, 1860 (For short 'IPC') and consequential charge-sheet, which resulted in registration of R. C. C. No. 319/2023 pending on the file of learned Judicial Magistrate, First Class, Kannad and the order of issuance of summons against the Applicants.

3. The aforesaid crime is registered on the report lodged by Respondent No.2-Informant, who married to Accused No.1 on 05.05.2011. She was being harassed by the husband and in-laws. They used to blame Respondent No.2 for not paying attention to the new born child. Meeting was arranged by the father of the Informant to settle the matter. Applicant No.1 is the married sister-in-law of the Informant. Applicant Nos. 2 is the husband of Applicant No.1 whereas the Applicant No. 3 is their son. Applicant No.4 is the maternal uncle of the Informant. They used to instigate the husband and mother-in-law to harass the Informant. The said instigation was on the telephone and some time by visiting the house.

4. According to the learned Advocate for the Applicants, the husband and mother-in-law are not before this Court. The FIR and the statements of the witnesses shows that there are no specific allegations against the Applicants. Applicant No.1- sister-in-law is married and residing separately with her husband and son (Applicant Nos. 2 and 3

respectively). The maternal uncle was also residing separately. Making Applicants to face the trial on the basis of vague and omnibus allegation, would amount to abuse of process of law. He submits that the instigation cannot constitute the offence for which the Applicants are tried. He relied on the decision dated 21.02.2025 of Full Bench of this Court in Criminal Application No. 256 of 2024 in support of this contention.

5. It is submitted by the learned APP that, there are allegations of harassment against the Applicants. The Applicants used to visit the matrimonial home of the Informant and used to harass her. There is sufficient material against the Applicants and the Application needs to be dismissed.

6. It is submitted by the learned Advocate for Respondent No.2– Informant that, the charge has been framed by the learned Trial Court and, therefore, appropriate directions be issued to the learned Trial Court to conclude the trial within a specified time. The Informant has named the Applicants and attributed the role of instigating the husband and mother-in-law to harass the Informant.

7. The decision relied upon by the learned Advocate for the Applicants is in the proceedings for quashing the offences punishable under Sections 498-A, 376 (1) 377, 406, 354, 323, 500, 506 read with Section 34 of the IPC. It is observed in the said decision that the

instigation and common intention cannot be the basis on which the offence punishable under Section 498-A of the IPC can be proved.

8. Undisputedly, the husband and mother-in-law are not before this Court seeking quashing of the proceedings. Applicant No.1—sister-in-law is married and residing separately with her husband and son, namely Applicant Nos.2 and 3 respectively. Applicant No.4—maternal uncle is also residing separately. The allegation regarding harassment on account of not looking after the child is not against the Applicants. The allegations against the Applicants are that, they used to instigate the husband and mother-in-law of the Informant on phone and sometimes while coming to the matrimonial home and used to ask the informant that if she was not willing to cohabit with her husband, she should leave and that she was subjected to physical and mental cruelty. Similar are the statements of the parents of the Applicants. Taking the said allegations against the Applicants as it is, they are omnibus and vague. Except the said allegations, there is nothing against the Applicants so as to make out case against them. Asking the Applicants to face the trial on the basis of such omnibus and vague allegations would amount to abuse of the process of law. In the facts and circumstances of the case, in my considered view, this a fit case to exercise the powers under Section 428 of Cr.P.C. in favour of the Applicants. Hence, the following order:

ORDER

The application is allowed to the extent of Applicants in terms of prayer Clauses (B), (C) and (C-I) which read as under:

- (B) Be pleased to quash and set aside the FIR 222/2023 dated 06/09/2023 registered with Kannad City Police Station, Kannad, Dist- Aurangabad (Chatrapati Sambhaji Nagar) against the Applicants accused No. 3 to 6 for the offences punishable u/s 498-A, 323, 504, 506 read with 34 of Indian Penal Code, 1860.
- (C) Be pleased to quash and set aside the criminal proceeding RCC 319/2023 pending on the file of the Ld. Judicial Magistrate First Class, Kannad on the basis of CR / FIR No 222/2023 dated 06/09/2023 registered with Kannad City Police Station, Kannad, Dist- Aurangabad (Chatrapati Sambhaji Nagar).
- (C1) Be pleased to quash and set aside the summons/issue process Order dated 04/11/2023 and 07/07/2025 against the present Applicants passed by the Ld. Judicial Magistrate First Class, Kannad in RCC No. 319/2023.

(NEERAJ P. DHOTE, J.)