



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

CRIMINAL APPLICATION NO. 2998 OF 2023

- 1] Ameykumar s/o Nitinchandra Patil,
Age: 26 years, Occ: Private Service
R/o: A-1, 'Apurva', SamarthaSahniwas,
Near Adalat Road, Opp. Bhagya Nagar,
Aurangabad-431001.
- 2] Nitinchandra s/o Shriram Patil,
Age: 53 years, Occ: Business
R/o: A-1, 'Apurva', SamarthaSahniwas,
Near Adalat Road, Opp. Bhagya Nagar,
Aurangabad-431001.
- 3] Unnati w/o Nitinchandra Patil
Age: 48 years, Occ: Household
R/o: A-1, 'Apurva', SamarthaSahniwas,
Near Adalat Road, Opp. Bhagya Nagar,
Aurangabad-431001.
- 4] Apurva d/o Nitinchandra Patil
Age: 21 years, Occ: Education
R/o: A-1, 'Apurva', SamarthaSahniwas,
Near Adalat Road, Opp. Bhagya Nagar,
Aurangabad-431001.

... Applicants

Versus

- 1] The State of Maharashtra.
- 2] Aishwarya s/o Ameykumar Patil
Age: 26 years, Occ: Service,
R/o: C/o Ashok Sadashiv Late
M-22, Flat No. 280, Near Baba
Petrol Pump, New Mhada Colony
Aurangabad.

... Respondents

...

Mr. Nilesh Ghanekar, h/f Mr. Nagesh J. Sonune, Advocate for Applicants.

Smt. P. R. Bharaswadkar, APP for Respondent No.1 / State.

Mr. Joslyn A. Menezes, Advocate for Respondent No.2.

...

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

DATE : 04th April, 2025.

ORDER: (Per Sanjay A. Deshmukh, J.)

1 Heard the learned advocates for the respective parties.

2 This is an application under Section 482 of the Code of Criminal Procedure, 1973 (for short "the Cr.P.C.") for quashing of the proceedings in Special Case No.273 of 2023, pending in the Court of learned Special Judge, Aurangabad, arising out of FIR bearing Crime No.134 of 2023, dated 28th April, 2023, registered with Kranti Chowk Police Station, Aurangabad City, District Aurangabad, for the offences punishable under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code and under Sections 3(1)(r) and 3(1)(s) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3 After hearing to both the sides at length, when this Court expressed disinclination to grant relief to applicant Nos.1 to 3, the

learned counsel for the applicants, on instructions, seeks leave to withdraw the application of applicant Nos.1 to 3. Leave granted. Hereinafter, applicant No.4 is referred to as the “applicant”.

4 It is averred in the report by informant that on 24th May, 2021, she entered into an inter-caste registered marriage with accused No.1, which was not liked by her in-laws and the applicant, who is sister-in-law of the informant. After the marriage, the informant and her husband stayed at the house of the mother of informant for about three months. Thereafter, her father-in-law made phone call to the husband of informant and said to him that why he is residing in the prostitute’s house. He assured that he will arrange one room on rent near to his house. He requested him to come to reside there.

5 The informant further averred that from 1st September, 2021, she and her husband started to reside at Flat No. 5, Samarth Housing Society, behind Tapadia Kasliwal Ground, Bhagyanagar, Aurangabad. Later, the informant became pregnant. After knowing the same, the mother-in-law of the informant came to the informant and told her to terminate the pregnancy. She said to informant that *“we do not want your caste’s generation to be spread in our family”*. The informant refused to terminate the pregnancy. Her mother-in-law became upset and the husband of the informant started to harass the

informant on the instigation of his mother.

6 On 27th February, 2022, at about 12:30 am to 01:00 am, the husband of informant abused and beaten her. He said to the informant that *"I do not like you. You belong to a lower caste. You are not giving me meals on time"*. He kicked on her stomach and back and also slapped her. The in-laws of the informant were residing adjacent to the said flat. The husband of informant shouted from the window that he will cut the informant into pieces and eliminate her. Upon that, her in-laws and the applicant came there in the house. The applicant said to the informant that they would get the husband of informant married to someone from a higher caste than her and that her divorce could easily be arranged and taken. That time, her in-laws abused her in filthy language and accused her of trapping their son for money and property. They said their family's reputation was ruined because of the informant.

7 The informant further averred that on 6th March, 2022 at about 10:30 am, her father-in-law made phone call to her husband and said that to him that *"where is your wife. I will show my power to her."* Thereafter, his relatives came. They asked the informant as to when she is terminating her pregnancy. They said that if the informant is not doing so, they will do that. They said that they do not want to

contaminate the generation of their family. They took her husband to their house. The informant stayed in the rented room alone till 21st March, 2022. Thereafter, she made complaint to the Bharosa Cell, Aurangabad. Without informing the informant, her in-laws took away her belongings, when she went to the date fixed by the Bharosa Cell. Her in-laws also refused to take her back. The informant further averred that when she went to lodge the report at Kranti Chowk Police Station, the police officer convinced her husband. They both stayed under one roof for one month. Thereafter, she went for delivery to her parents. That time, the husband of the informant said that his parents are insisting to leave the informant. They expelled her husband from the house. On 12th June, 2022, the informant delivered a baby girl. Therefore, her in-laws became very upset. Since then the informant is residing with her parents. Her husband never came to see the baby and avoided answering when asked if he would take the informant back ? That time he said to the informant that he is serving at Hyderabad. The informant asked her husband to pay some amount for the girl child. He told her to bring the child to him and he would decide what to do. The informant, thereafter, went to her husband's house at Bhagyanagar. He said to the informant that he is a naked man, he has no money. He said to the informant to maintain herself and even said, *"even if the baby dies, I don't care"*. He abused and refused to take the daughter to the hospital. She called help of the police. The police

convinced her husband. He then took her to the hospital. While taking her to the hospital, her husband slapped her. After the treatment, when they came back, her husband told her that he will not maintain her, if she needs money, she should become a prostitute, he will bring clients for her. He then strangled her and threatened to throw the baby from the bridge. He said he would kill both i.e. the informant and the child and claimed he had no feelings left. He accused her of blackmailing him using the baby. That night, he left the informant and the baby on the footpath near DNS Bank and forced her to sleep there. He even tried to push her into prostitution. He then said he would get medicine from a medical shop but never returned. The informant went to the police station for lodging the report. Her husband also came there for lodging the report against her. The informant was doing a private job. On 20th February, 2023 at about 09:00 to 09:15 am, when the informant was coming back from work, at the corner of the gate of MHADA colony, her in-laws were already standing there. They stopped her and threatened her to withdraw the complaint. They said to the informant that *"You showed nature of your Mahar caste. This is why we never took you into our home. Yes, we will abuse on your caste. Do whatever you want. Stop going to the police or you will face dire consequences."* Therefore, she lodged the report against her husband, in-laws and the applicant.

8 The learned counsel for the applicant submitted that the applicant is falsely implicated in the crime. She has no concern with the said crime. Her name is taken only because she is the sister of the husband of informant. There are vague allegations against her. The specific incident about alleged abuses on the caste, looking down upon her and treating the informant with cruelty are not specifically stated by informant either in the report or in the statements of witnesses against this applicant. The applicant is a student. The informant is taking disadvantage of her caste. He submitted that the essential ingredients of Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code and under Sections 3(1)(r) and 3(1)(s) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, are not establishing against the applicant. He lastly prayed to allow the application.

9 The learned APP for the State strongly opposed the application and submitted that the applicant is involved in the serious crime. Her names is mentioned in the report. The applicant abused the informant in filthy language. She 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 name of

the applicant is mentioned in the report. She treated the informant with cruelty. She abused the informant in filthy language by taking the name of her caste. She is involved in serious 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 so also the caste certificate of the informant, which shows that she belongs to a Scheduled Caste community (MAHAR). It is alleged that the applicant abused the informant on the caste, however, particular incident is not stated by the informant as to when she was abused by the applicant on the caste. There are serious allegations against applicant Nos.1 to 3 and it appears from the report and the statements of witnesses that they treated the informant with cruelty and abused her in a filthy language on her caste. The application of applicant Nos.1 to 3 is withdrawn. The allegation against the applicant (applicant No.4) is that she only stated to the informant that they would get the husband of informant married to someone from a higher caste and that a divorce could easily be arranged. She had not abused the informant on her caste. In the entire report, it is not specifically stated as to when the applicant

abused the informant on caste. She insisted her for the divorce, which certainly is not cruelty as contemplated by Section 498-A of the IPC. Saying such words like to take divorce and we will perform marriage with the girl of higher caste, do not establish the cruelty as there is no demand of money, dowry or cruelty driving her to commit suicide as per Section 498-A of the IPC.

14 Considering all these aspects together, we are of the view that if the applicant (applicant No.4) is directed to face the trial, it would certainly be an abuse of the process of Court. We are therefore, inclined to allow the application to the extent of applicant No.4 by exercising our inherent powers under Section 482 of the Cr.P.C. Hence, the authority of Honourable Supreme Court in the case of ***Aluri Venkata Ramana Vs. Aluri Thirupathi Rao and Ors, MANU/SCOR/151680/2024***, is not helpful for the learned counsel for respondent No.2.

15 In the result, the following order is passed:-

ORDER

- I. The application of applicant Nos.1 to 3 stands dismissed as withdrawn.
- II. The proceedings in Special Case No.273 of 2023, pending in the Court of learned Special Judge,

Aurangabad, arising out of FIR bearing Crime No.134 of 2023, dated 28th April, 2023, registered with Kranti Chowk Police Station, Aurangabad City, District Aurangabad, for the offences punishable under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code and under Sections 3(1)(r) and 3(1)(s) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, stands quashed to the extent of applicant No.4 (Apurva Nitinchandra Patil) only.

III. The application stands disposed of.

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

nga