

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 881 OF 2015

MADHAV DEVIDAS ADHE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

.....
Advocate for petitioner : Mr. S. B. Talekar
APP for respondent No. 1 : Mr. K. M. Suryawanshi
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**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 10th AUGUST, 2015

P.C. :-

1. The present petition is filed under Section 482 of the Code of Criminal Procedure for quashing of the complaint filed by the present respondent No. 2 purportedly under Sections 498-A, 323, 504 and 506 of the Indian Penal Code.

2. Mr. Talekar, the learned counsel for the petitioner states that the petitioner is the brother of the husband of respondent No. 2. The complaint of general nature has been filed by respondent No. 2 against the petitioner. There are no specific allegations. The alleged incident is of 23.03.2014 and the complaint is filed on 08.12.2014. There is no explanation for this inordinate delay in filing the complaint. The learned counsel submits that the other allegation is

too general in nature and where the allegations are too general in nature, in such cases, the Courts would step in for quashing the complaint. It is the general tendency to involve all the persons of the family in such complaints. The learned counsel submits that the petitioner is also residing separately. This aspect also needs to be considered. Even after the incident dated 23.03.2014, respondent No. 2 compromised the matter in the Family Court with the brother of the petitioner. Before the Family Court also, no allegations were made against the present petitioner. The learned counsel further submits that the second incident of 06.12.2014 is of general nature and for such a general allegation, the complaint would not survive. It is only after the mother of the petitioner filed complaint against respondent No. 2, the respondent No. 2 has filed the present complaint dated 09.04.2015 involving all the family members. The delay in filing the complaint also requires to be considered, so also, the allegations of general nature, which are extremely vague, along-with the attending circumstances, should also be considered. The petitioner is selected for appointment to the Government Military Hospital. The learned counsel relies on a judgment of the Apex Court in a case of ***Chandralekha and Others Vs. State of Rajasthan and Another, reported in (2013) 14 SCC 374***, so also, the judgment in a case of ***Geeta Mehrotra and Another Vs. State of Uttar Pradesh and Another, reported in (2012) 10 SCC 741***.

3. We have considered the submissions canvassed by the learned counsel for the petitioner and also have gone through the judgments referred.

4. The Courts, while entertaining a petitioner under Section 482 of the Code of Criminal Procedure, for quashing a complaint, has to be cautious. The averments made in the complaint are required to be considered as they are. Of course, as is held by the Apex Court, if the allegations are general in nature, then this Court can consider the same for quashing the complaint in exercise of its powers under Section 482 of the Code of Criminal Procedure. For reference, we may quote the allegations against the petitioner in the complaint dated 08.12.2014 are as under :

"परंतु त्यानंतर सुद्धा माझे पती हे मला मारहाण करतच राहिले. दिनांक २३.०३.२०१४ रोजी मी गर्भवती असताना माझ्या पतीने व माझ्या दिराने मला बेदम मारहाण केल्यामुळे मी माहेरी आले. तेव्हा माझ्या पतीने कौटुंबिक न्यायालयात माझ्याविरुद्ध खोटी तक्रार केली.

दिनांक ५.१२.२०१४ रोजी माझ्या पतीने माहेरहून पैशांची मागणी करून मला मारहाण केली. त्यामुळे मी दि ६.१२.२०१४ रोजी मुकुंदवाडी पोलिस स्टेशन येथे माझ्या पतीच्या विरुद्ध तक्रार केली. त्याच दिवशी माझे सासूसासरे व दीर यांनी घरी येवून मला धमकी दिली की, तक्रार मागे घे, तसेच माहेरहून पैसे आन नाहीतर आम्ही तुला व तुझ्या बाळाला तसेच तुझ्या कुटुंबियांना जीवे मारून टाकू अशी धमकी दिली आहे. त्यामुळे माझ्या मनात एक भीतीचे वातावरण निर्माण होवून माझे जीवन जगणे कठीण झाले आहे. त्यामुळे मी सध्या माझ्या माहेरी राहत आहे."

5. The said complaint is in the vernacular language. If the averments of the said complaint, as made against the present petitioner are seen, the said averments are with regard to the incident dated 23.03.2014 wherein, it is specifically stated that when the complainant was pregnant, on 23.03.2014, the husband of the complainant and the present petitioner beat the complainant. The second incident is dated 06.12.2014, that is referable to the complaint filed by the respondent No. 2 with the Police Station, Mukundwadi against her husband i.e. the brother of the present petitioner and after filing the said complaint, the parents-in-law as well as the present petitioner came to the house of the complainant and threatened the complainant. Two specific incidents are quoted in the complaint by respondent No. 2. The Apex Court, in the case of **Geeta** (*Supra*), in paragraph No. 25, has observed as under :

"25. However, we deem it appropriate to add by way of caution that we may not be misunderstood so as to infer that even if there are allegations of overt act indicating the complicity of the members of the family named in the FIR in a given case, cognizance would be unjustified but what we wish to emphasis by highlighting is that, if the FIR as it stands does not disclose specific allegation against the accused more so against the co-accused specially in a matter arising out of matrimonial bickering, it would be clear abuse of the legal and judicial process to mechanically send the named accused in the FIR to undergo the trial unless of course the FIR discloses specific allegations which would persuade the court to take cognizance of the offence alleged against the relatives of the main accused who are prima

facie not found to have indulged in physical and mental torture of the complainant wife. It is the well-settled principle laid down in cases too numerous to mention, that if the FIR did not disclose the commission of an offence, the court would be justified in quashing the proceedings preventing the abuse of process of law. Simultaneously, the courts are expected to adopt a cautious approach in matters of quashing, especially in cases of matrimonial disputes whether the FIR in fact discloses commission of an offence by the relatives of the principal accused or the FIR prima facie discloses a case of over implication by involving the entire family of the accused at the instance of the complainant, who is out to settle her scores arising out of the teething problem of skirmish of domestic bickering while settling down in her new matrimonial surrounding.”

6. The arguments of Mr. Talekar, the learned counsel, could have been accepted if the allegations had been bald or vague. However, specific incidents are quoted in the complaint. It would not be appropriate to quash the complaint at this stage.

7. In light of the above, the writ petition is dismissed, however, with no orders as to costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

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