

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPLICATION NO.6381 OF 2015

1 Hemant s/o Rajkumar Kabra
2 Pushpa w/o Rajkumar Kabra
3 Pallavi w/o Kapil Rathi
4 Kapil s/o Omprakash Rathi

Applicants

Versus

1 The State of Maharashtra
2 Monika w/o Hemant Kabra

Respondents

Mr.S.C.Arora, advocate for applicants.
Mr.S.Y.Mahajan, APP for Respondent No.1.
Mr.Rajendra S. Deshmukh, advocate for Respondent No.2.

**CORAM : R.M.BORDE &
K.L.WADANE, JJ.
DATE : 30th March, 2016**

PER COURT:

1 The applicants are praying to quash the First Information Report lodged on 09.10.2015, bearing No.177/2015, at Police Station Bhusawal, District Jalgaon, for offences punishable under Sections 498A, 406, 323, 504, 506 read with Section 34 of the Indian Penal Code.

2 Applicant No.1 is the husband of complainant, whereas, applicant no.2 is mother in law, applicant no.3 is sister in law, whereas, applicant no.4 is husband of applicant no.3. It is alleged in the complaint that marriage between her and applicant no.1 was solemnized on 13.06.2014. At the time of marriage, as per demand of applicants, gold ornaments weighing 35 tolas (350 gms) and silver items weighing 10 Kgs were given to the applicants.

It is contended that after solemnization of marriage, within a period of one month and seven days, father of applicant no.1 and husband of applicant no.2 died as a result of snake bite. It is alleged by the complainant that applicants were always putting blame of sudden death of father in law on the complainant and used to abuse her saying that her arrival in the matrimonial house is bad omen. which has resulted in the death of her father in law. It is also alleged that all the applicants used to physically abuse her.

3 The complainant also alleged that sister in law and her husband used to abuse her by making telephone calls and used to instigate her husband. The sister in law, her husband and mother in law used to give advice to petitioner no.1 to seek divorce from the complainant. It is alleged that petitioner no.1, husband of the complainant, extended beating to the complainant on 08.11.2014 and it is further alleged that she was taken to a Psychiatrist with an object to demonstrate that she is suffering from mental illness.

4 It is clear that there are specific allegations made against husband, mother in law, sister in law and husband of sister in law. It is well established that, if *prima facie* case is made out in respect of commission of offence, on perusal of the contents recorded in the First Information Report, the Courts shall desist from causing interference. The merits and demerits of the allegations levelled in the First Information Report are not to be taken into consideration at the initial stage and no interference shall be caused.

5 An affidavit in reply has been presented by the complainant denying contentions raised in the application. The complainant has reiterated the allegations recorded in the First Information Report and has in fact attributed specific role to each of the applicant. Considering facts and circumstances of this case, we are of the considered opinion that this is not a fit case for causing interference in the matter and directing to quash the proceedings.

6 Reliance is placed on the judgment of the Supreme Court in the matter of **Bhaskar Lal Sharma & another Vs. Monica**, reported in (2009) 10 SCC 604. The facts giving rise to the matter before the Supreme Court are totally different and as such, ratio laid down therein cannot be made applicable. Similarly, reliance placed on the judgment of the Supreme Court, in the matter of **Preeti Gupta & another Vs. State of Jharkhand & another**, reported in (2010) 7 SCC 667; as well as judgment in the matter of **Geeta Mehrotra and another Vs. State of U.P. and another**, reported in 2012 AIR SCW 5692, is misplaced.

7 For the reasons recorded above, there is no merit in the application.

8 Criminal Application stands dismissed.

K.L.WADANE
JUDGE

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R.M.BORDE
JUDGE