

ORAL JUDGMENT [PER : S.S. SHINDE,J.] :-

1. Rule. Rule made returnable forthwith and heard finally with the consent of the parties.

2. It is not necessary to make reference to the facts in detail. Suffice it to say that the applicants being aggrieved by the lodging of First Information Report (for short "FIR") impugned in this application, have filed this application under section 482 of Code of Criminal Procedure. Learned Counsel appearing for the applicants submits that applicant No.1, who is sister of Rameshwar i.e. husband of respondent No.2, got married in the year 2005 and since then she is residing in her matrimonial home. He further submits that applicant No.2 resides in the same house, however, separately, in view of oral partition in the family, wherein a part of portion of the house is given to applicant No.2. It is submitted that even if the allegations in the FIR are taken at its face value and read in its entirety, the

ingredients of the alleged offences have not been disclosed. There are general allegations without mentioning any specific date or period or incident. It is submitted that the allegations in the FIR itself disclose that respondent No.2 was properly treated in the matrimonial home for four years from the date of marriage. Therefore, it completely rules out possibility of any alleged illtreatment or harassment after a period of four years from the date of marriage. It is submitted that the allegations in the FIR, so far applicant No.1 is concerned are inherently improbable in as much as she is married long back and stayed in the matrimonial home. On the other hand, learned APP appearing for the State invites our attention to the allegations in the FIR and also the statements of other witnesses recorded during the course of investigation by the Investigating Officer and submits that the allegations in the FIR will have to be taken as they appear and on disclosure of the alleged offences, and statement of witnesses will have to be tested during trial. Therefore, he submits that the

application may be rejected.

3. We have considered the submissions of the learned Counsel appearing for the applicants and learned APP appearing for the State. Perused the allegations made in the FIR and also statements of other witnesses and the material collected by the Investigating Officer during the course of investigation. So far as applicant No.1 is concerned, the allegations against her are as under :-

"Husband and sister-in-law assaulted me by slaps and kicks for the reason that I am dark and I am unable to work."

4. Apart from afore-mentioned allegations, there are general allegations against her. In the FIR date or period is not mentioned and the allegations appear to be omnibus. If respondent No.2 was properly treated for first four years, there was no reason to give ill-treatment or harassment by applicant No.1 after four years. If the allegations in the FIR are taken as it is

and read in its entirety, those are general in nature and so far applicant No.1 is concerned, those are inherently improbable.

5. So far as applicant No.2 is concerned, the allegations against him are as under :-

"That my brother-in-law Sham assaulted me by slaps and kicks for the reason that I did not serve hot dinner when he came anytime at night."

6. Even in case of applicant No.2, there are general and vague allegations without mentioning any specific date or period or quoting specific incident.

7. The Supreme Court in the case of **Geeta Mehrotra and another Vs. State of Uttar Pradesh and another**¹ in the facts of that case held that casual reference to a large number of members of the husband's family without any allegation of active involvement would not justify taking cognizance against them and subjecting them to trial. In the said judgment, there is also reference of

¹ (2012) 10 SCC 741

the judgment of the Supreme Court in the case of **G.V.Rao Vs.L.H.V. Prasad**² wherein in para 12 it is observed thus:

"12. There has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their 'young' days in chasing their 'cases' in different courts."

8. The Supreme Court in the case of "State of Haryana V/s Bhajan Lal"³ held that, in following categories the Court would be able to quash the F.I.R.

"108. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of

2 (2000) 3 SCC 693

3 AIR 1992 SC 604

the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

4. Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
 5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
 6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
 7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.
9. In that view of the matter, keeping in view the exposition of law by the Supreme Court in the cases of **Geeta Mehrotra & Bhajanlal (Supra)**, we are inclined to

allow this application to the extent of present applicants.

10. In the result, the Criminal Application is allowed in terms of prayer clause "B" and disposed of. Rule made absolute accordingly. No costs.

[S.M.GAVHANE, J.]

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