

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

CRIMINAL APPLICATION NO.2837 OF 2017

1. Ramdeo s/o.Chintaman Badgujar,
Age: 44 Years, Occu: Asst. Teacher,
R/o. At post Kalamsare, Tq.Amalner,
Dist. Jalgaon.
2. Sushilabai wd/o. Chintaman Badgujar
Age: 70 years, Occu: Household
R/o. At post Kalamsare, Tq.Amalner,
Dist. Jalgaon.

APPLICANTS

VERSUS

1. The State of Maharashtra
2. Vaishali w/o.Ramdeo Badgujar
Age: 40 Years, Occu. Household,
R/o.C/o. Madhavrao Baburao Badgujar
Subhashpura, Near Trikon Garden,
Amalner, Tal.Amalner,
Dist.Jalgaon.

RESPONDENTS

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Mr.C.T.Jadhav, Advocate for the applicants
Mr.Shashibhushan P.Deshmukh, APP for the
respondent/State
Mr.Girish Rane, Advocate for respondent no.2.

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**CORAM: S.S.SHINDE &
MANGESH S.PATIL,JJ.
Date: 06.11.2017**

ORDER: (Per S.S.Shinde, J.):

1] Learned counsel appearing for the applicants submits that even if the allegations in the First Information Report are taken at its face value and read in its entirety, the alleged offences as against applicant no.2 are not disclosed. He invites our attention to the allegations in the First Information Report and also the charge-sheet and accompaniments of the charge-sheet and submits that the application deserves to be allowed.

2] On the other hand, learned APP appearing for the respondent-State and learned counsel appearing for respondent no.2 submits that the alleged offences have been disclosed even if against applicant no.2. Therefore, the application may be rejected.

3] We have heard the learned counsel appearing for the applicants, learned APP

appearing for the respondent-State and learned counsel appearing for respondent no.2 at length. With their able assistance, we have carefully perused the allegations in the FIR, charge-sheet and its accompaniments. Upon careful perusal of the allegations in the FIR, it appears that, respondent no.2 left the matrimonial home way back in the year 2005. The allegations as against applicant no.2 are too vague, general and would not constitute any offence against her. We have also carefully perused the accompaniments of the charge-sheet, and we are of the opinion that, even if the allegations in the FIR and accompaniments of the charge-sheet are considered in its entirety, the chances of the conviction of applicant no.2 would be bleak. As is already observed, there are vague and general allegations.

4] The Supreme Court in the case of

Geeta Mehrotra and another Vs. State of Uttar Pradesh and another¹ 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 to 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

1 (2012) 10 SCC 741

2 (2000) 3 SCC 693

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."

5] 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 the principles of law enunciated

3 AIR 1992 SC 604

by this Court in a series of decisions relating to the exercise of the extraordinary 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.

6] The case of applicant no.2 is covered under category no.1 and 2 of the afore-mentioned categories.

7] In the light of above, the First Information Report No.244/2016 registered with Amalner Police Station, for the offences punishable under Sections 498-A, 323, 504 and 506 of the Indian Penal Code and the proceedings on the basis of the said FIR i.e. RCC No.126/2017, pending on the file of Judicial Magistrate First Class Amalner, stands quashed and set aside to the extent of applicant no.2 only. The application to the extent of applicant no.1 stands dismissed as withdrawn.

8] The application is partly allowed,
and the same stands disposed of accordingly.

[MANGESH S.PATIL]
JUDGE

[S.S.SHINDE]
JUDGE

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