

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****CRIMINAL APPLICATION NO. 3708 OF 2016**

1. Arti W/o Devanand Mahor
Age : 25 years, Occ : Household,
R/o Santosh Nagar, Katraj,
Dist. Pune.
2. Sagar S/o Sanjay Sartale
Age : 22 years, Occ : Labour,
R/o Santosh Nagar, Katraj,
Dist. Pune.
3. Samadhan S/o Raghunath Sartale
Age : 55 years, Occ : Agri.,
R/o At Waki, Tq. Jamner,
Dist. Jalgaon
(Current address :- Anjangaon Surji,
Tq. Sategaon, Dist. Amravati.)
4. Kausalyabai W/o Samadhan Sartale
Age : 50 years, Occ : Household,
R/o At Waki, Tq. Jamner,
Dist. Jalgaon
(Current address :- Anjangaon Surji,
Tq. Sategaon, Dist. Amravati)
5. Rekha W/o Ganesh Mahor
Age : 32 years, Occ : Household,
R/o At Waki, Tq. Jamner,
Dist. Jalgaon.
6. Sunita W/o Ajay Sartale
Age : 24 years, Occ : Household,
R/o At Waki, Tq. Jamner,
Dist. Jalgaon.

7. Priyanka W/o Vijay Sartale
Age : 26 years, Occ : Govt. Servant,
R/o Anjangaon Surji,
Tq. Sategaon, Dist. Amravati.
8. Rekha W/o Ganesh Gurav
Age : 36 years, Occ : Household,
R/o Waki, Tq. Jamner,
Dist. Jalgaon.
9. Archana D/o Ganesh Gurav
Age : 19 years, Occ : Education,
R/o Waki, Tq. Jamner,
Dist. Jalgaon.

..APPLICANTS

-VERSUS-

1. The State of Maharashtra
2. Kavita W/o Amol Sartale
Age : 23 years, Occ : Household,
R/o C/o Babulal Pandurang
Chaudhari, at Khadakdevla,
Tq. Pachora, Dist. Jalgaon.

..RESPONDENTS

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Advocate for Applicants:Mr.V.B. Jogdand Patil
APP for Respondent/State : Mr. S.P. Deshmukh
Advocate for respondent no.2:Mr.B.S. Deshmukh

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**CORAM : S.S. SHINDE &
K.K. SONAWANE, JJ.**

Dated: February 28, 2017

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ORAL JUDGMENT (PER S.S.SHINDE, J):-

At the outset, the learned counsel

appearing for the applicants, on instructions, seeks leave to withdraw the application in respect of applicant no.1 – Arti W/o Devanand Mahor and applicant no.3 – Samadhan S/o Raghunath Sartale.

2. Leave granted. The application is dismissed as withdrawn so far as applicant nos.1 and 3 is concerned.

3. So far other applicant nos.2, 4, 5, 6, 7, 8 and 9 are concerned, we have carefully perused the allegations in the First Information Report. The allegations against them are not specific, no overt acts are attributed to each of the applicants. No specific date is mentioned. The allegations are omnibus.

The contention of the learned counsel appearing for respondent no.2 that, the allegations in the complaint filed by respondent no.2 on 7th September, 2015 to the Women Vigilance Cell, Superintendent of Police Office, Jalgaon may be considered is devoid of any merits since the said complaint was considered and disposed of. Upon careful perusal of the investigation papers only the

name of the respondent's father-in-law, mother-in-law, sister of the husband and one Samadhan are mentioned by the other witnesses whose statements have been recorded.

4. The Supreme Court in the case of ***State of Haryana V/s Bhajan Lal***¹ 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 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,

1AIR 1992 SC 604

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.*

In that view of the matter, keeping in view the exposition of law by the Supreme Court in the case of **State of Haryana (supra)**, the case of the applicant nos. 2, 4, 5, 6, 7, 8 and 9 is fall under category nos. 1 and 2.

5. The Supreme Court in the case of ***Geeta Mehrotra and another Vs. State of Uttar Pradesh and another***² 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 the judgment of the Supreme Court in the case of ***G.V.Rao Vs.L.H.V. Prasad***³ 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

2 (2012) 10 SCC 741

3 (2000) 3 SCC 693

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."

6. For the reasons stated in the foregoing paragraphs, the application is partly allowed. The F.I.R. bearing Crime No.192 of 2015 registered with Pachora Police Station for the offence under Section 498(A), 420, 323, 504, 506 and 34 of the Indian Penal Code is quashed and set aside so far as applicant nos. 2, 4, 5, 6, 7, 8 and 9 are concerned and the application stands disposed of accordingly.

7. The observations made hereinbefore, are prima facie in nature and for the

purposes of adjudication of the present
application only.

(K.K. SONAWANE, J.)

(S.S. SHINDE, J.)

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