

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

CRIMINAL APPLICATION NO. 4330 OF 2017

- 1] Kuldipsingh S/o Shobhasingh
Sandhu Pujari,
Age:40 Years, Occ.: Advocate,
R/o Badpura Gurudwara gate no.4
Nanded.
 - 2] Papinder Singh S/o Shobha Singh
Sandhu Pujari,
Age 45 years, Occu.Police Constable
R/o Vishnupuri, Tal.& Dist.Nanded
 - 3] Sau.Sukhmindarkaur w/o DilipsinghMalli,
@ Soni, Age 36 years, Occ-Household
R/o Sahidpura, Gurudwara gate no.6,
Nanded.
 - 4] Dilip Singh Basant Singh Malli,
Age 42 years, Occ.Service,
R/o Sahidpura, Gurudawara gate no.6
Nanded.
 - 5] Manjitkaur W/o Kartalsingh Bhoshikar,
Age 54 years, Occ-Housewife,
R/o Samarth Nagar, Usmanpura.
 - 6] Charanjeet Kaur @ Roma D/o
Kartal Singh Bhoshikar,
Age 36 years,occ.Housewife,
R/o Samarth nagar,
Usmanpura, Aurangabad.
- Appellants
[Original accused]

VERSUS

1] The State of Maharashtra
(Through Incharge police
station Officer), Police
Station Nanded Gramin (Rural)
(Copy for respondent be served
on public prosecutor, High Court
bench at Aurangabad)

2] Sau. Gurupreetkaur Balwant
Singh Sandhu
Age 32 years, Occ. Household
R/o Usmanpura, Aurangabad
Mob.No.98609229333

.. RESPONDENTS
[ORIGINAL COMPLAINANT]

Mr.P.R.Katneshwarkar, Advocate for applicants.
Mr.V.M.Kagne, AGP for Respondent No. 1.
Adv.P.R.Wankhede, for respondent No.2.

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

**RESERVED ON : 06/10/ 2017.
PRONOUNCED ON : 31/10/2017.**

JUDGMENT (PER MANGESH S. PATIL,J.) :

. Rule. Rule is made returnable forthwith. Heard finally
with the consent of the parties.

2] This is an application invoking the powers of this Court under
Section 482 of Cr.P.C. for quashing of FIR bearing No.278/2017
registered with Police Station, Nanded (Rural), on a complaint lodged
by respondent no.2 for the offences punishable under Sections 420,
498-A, 323, 504, 506, 507 read with 34 of IPC. The respondent no.2

is the wife of one Balwant Singh @ Luckysingh and the applicants are his cousin brothers and their wives.

3] Shortly stated, the allegations in the FIR are to the effect that the applicants alongwith the husband of respondent no.2 and his parents did not disclose that Luckysingh was suffering from some kind of addiction and was unable to sleep without pills. Without disclosing this fact and also misleading respondent no.2 about his post in the police department, all of them deceived her to marry Luckysingh. Thus she was cheated to marry Luckysingh. According to the respondent no.2, when the fact of his such addiction/ailment was revealed to her and her parents, they consulted various doctors from Aurangabad and the fact that he was suffering from such ailment was confirmed. Annoyed by such revelation of the fact and other grounds, Luckysingh, his parents, his real brother and real brother's wife alongwith present applicants started abusing and ill-treating her. They treated her with cruelty. She was made to forcibly abort and thus, all of them conjointly treated her with cruelty.

4] We have perused police papers, affidavit in reply filed by respondent no.2. We have heard learned advocate for the applicants, learned APP as well as learned Advocate for the respondent no.2 in exten so.

5] According to the learned advocate for the applicants, the allegations in the FIR are *ex facie* improbable. The complaint has been filed with a mala fide intention to harass all the family members of Luckysingh. Out of matrimonial dispute, respondent no.2 has repeatedly filed complaints against all the in-laws. The dispute was also referred to Women's Complaint Redressal Committee and the applicants are no way concerned with the alleged ill-treatment and

had no role in cheating respondent no.2 to marry Luckysingh. Even if the contents of the FIR are taken at their face value, they do not make out necessary ingredients for constituting offence for which the applicants are being roped in. The learned advocate for the applicants also relied upon the decision in the case of State of Haryana V/s Bhajanlal; AIR 1992 S.C. 604 .

6] The learned advocate for the respondent no.2 and the learned APP vehemently opposed the application. The learned advocate for respondent no.2 submitted that the Petition is liable to be dismissed on the ground of delay and laches inasmuch as the FIR has been registered on 19/5/2017 and the application has been moved belatedly on 6/8/2017. He is also submitted that even applicants are not entitled to the discretionary relief invoking powers under Section 482 of Cr.P.C., since they have falsely shown their wrong addresses in the title clause just to demonstrate that they are residing far away from the residential houses of the husband and in-laws of the respondent no.2. The learned advocate submitted that the ingredients for the offences registered against applicants can easily be made out from a careful reading of the FIR. At this juncture this Court cannot go into veracity or otherwise of the facts alleged. The learned advocate also relied upon the decisions of the Supreme Court in the case of Padal Venkata Rama Reddy @ Ramu V/s Kovvuri Satyanarayana Reddy and others; (2011) 8 SCALE 128 and in the case of N.Soundaram V/s P.K.Pounraj; 2015 (88) AllCC 305 and submitted that even by invoking the principles laid down in the case of Bhajanlal (supra) the applicants' case does not fit in any of the instances enlisted therein.

7] We need not elaborate much on the legal aspects as regards the powers of the High Court under Section 482 of the Cr.P.C. to

quash an FIR. Those are far too are well settled by catina of pronouncements which the Supreme Court has culled down initially in the case of Bhajanlal (supra) and recently in the case of Padal Venkata Rama Reddy (supra). Suffice for the purpose to reproduce the broader guidelines, laid down in the case of Bhajanlal, which read thus :

“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, clearly defined and sufficiently channelised and inflexible guidelines of 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."

8] A careful reading of these guidelines would reveal that inherent powers of the High Court can only be invoked in rare cases inasmuch as the scrutiny at this stage cannot be a threadbare one. A fact alleged needs to be proved and a party alleging it need to be extended sufficient opportunity to establish it, which cannot take place in this proceeding. Therefore, at this stage, only the allegations made in the FIR need to be looked into, to ascertain if those are sufficient to constitute the offences registered. It seems that even this view now has been extended by the Supreme Court in the case of Padal Venkata Rama Reddy (supra). It has now been laid down that even it is not necessary that the FIR should expressly cover all the ingredients for constituting the offence. It is not supposed to be an encyclopedia and even a cursory reference

coupled with the other evidence collected by the Investigating Officer would ultimately be looked into by the trial Court to ascertain if all the allegations have would constitute a particular offence. In this respect, following observations from paragraph no.24 in the case of Padal Venkata Rama Reddy (supra) are indeed important, which read as under :

“24. We have already pointed out various principles and circumstances under which the High Court can exercise inherent jurisdiction under Section 482. When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge. The scope of exercise of power under Section 482 and the categories of cases where the High Court may exercise its power under it relating to cognizable offences to prevent abuse of process of any court or otherwise to secure the ends of justice were set out in detail in Bhajan Lal (supra). The powers possessed by the High Court under Section 482 are very wide and at the same time the power requires great caution in its exercise. The Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. It would not be proper for the High Court to analyse the case of the complainant in the light of all the probabilities in order to determine whether conviction would be sustainable and on such premise arriving at a conclusion that the proceedings are to be quashed. In a proceeding instituted on a complaint, exercise of inherent powers to quash the proceedings is called for only in a case in which complaint does not disclose any offence or is frivolous, vexatious or oppressive. There is no need to analyse each and every aspect

meticulously before the trial to find out whether the case would end in conviction or acquittal. The complaint has to be read as a whole. The statement of witnesses made on oath to be verified in full and materials put forth in the charge sheet ought to be taken note of as a whole before arriving any conclusion. It is the material concluded during the investigation and evidence led in court which decides the fate of the accused persons. ”

9] Bearing in mind the above principles, if one carefully reads the FIR which is quite prolix and runs into more than six pages, at various places like paragraphs no.1, 5, 6 and 7, allegations have been specifically levelled against the present applicants that they all obtained the consent of the respondent no.2 for performing marriage with Luckysingh. There are allegations against all the applicants that they used to instigate Luckysingh to beat respondent no.2. There are allegations that they instigated Luckysingh to have the respondent no.2's abortion. They threatened her and that the applicants instigated the respondent no.2's in-laws and Luckysingh to demand money. As is observed above, this is not the appropriate stage to verify the correctness or otherwise of these allegations. Therefore, the submission of the learned advocate for the applicants that it is necessary that the allegations in the FIR should be elaborate so as to attribute role to each of the applicants, is too broad a statement to be worthy of acceptance.

10] It is pertinent to note that the respondent no.2 alongwith her affidavit in reply has produced a document to show that she had sustained injuries and the Medical Officer has issued this extract of treatment taken by her at Government Medical College Hospital. The police papers further reveal that the Investigating Officer has already collected material in the form of voter's identity card, electricity bills

etc. which prima facie show that the applicants have been residing near the in-law's place of the respondent no.2. The statements have been recorded of witnesses who have in unison stated about frequent quarrels of the respondent no.2 with her in-laws including the present applicants. In view of such state of affairs, we are not inclined to exercise the discretion vested in this Court under Section 482 of the Cr.P.C. for quashing the FIR. The present case does not fit in any of the instances laid down in the case of Bhajanlal (supra). Therefore, the application is liable to be rejected.

11] It is made clear that the observations made hereinabove are made only to the extent of decision of this matter and shall not preclude the applicants in availing the suitable remedy for discharge, if so advised.

12] The application is rejected. Rule is discharged.

(MANGESH S. PATIL,J.)

(S.S.SHINDE ,J.)

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