

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1256 OF 2016

Gaurav Arun Giri and others	Applicants
versus	
The State of Maharashtra and another	Respondents

Mr.Arvind G. Ambekar for Applicants.
Mr.Satyajeet Rahate for Respondent no.2.
Mr.K.V.Saste, APP, for State.

CORAM : S.C.DHARMADHIKARI AND
PRAKASH D. NAIK, JJ.

DATE : 26th April 2017

PC :

1. On 23rd January 2017, this Court directed notice to be issued on this criminal application to the second Respondent. That is in terms of the order of 15th November 2016. On 15th November 2016, this Court passed an order that no coercive steps shall be taken against the accused-Applicants except Applicant no.1 Gaurav Arun Giri. On 23rd January 2017, this Court clarified that this ad-interim order will continue, but the investigation is not stayed.

2. This criminal application seeks quashing of an first information report ('FIR') bearing No.266 of 2016 and charge sheet bearing No.198/163 dated 6th September 2016. The offences alleged are under Sections 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code.

3. Learned counsel appearing on behalf of Applicants would submit that even if the charge sheet is perused in its entirety, there is no case made out, inasmuch as there is no material to indicate that the incident took place within the jurisdiction of Nashik District Police. Every statement made by the complainant would indicate as to how the incident occurred within the local limits of Ahmednagar District Police station. The first contention, therefore, is Nashik District Police and District Court, have no jurisdiction to entertain and try the case.

4. Then on merits, it is contended that no prima facie case is made out against present Applicants. The present Applicants cannot be roped in for the simple reason that the allegations would indicate that an attempt is made to involve the family members deliberately. There is no specific act attributed and to each of them. Moreso, when Applicant no.1 resides at Village Ozhe District Nashik, Applicant nos.2 and 3 reside at Kolhar, Taluka Rahata in Ahmednagar District and Applicant nos.3 and 4 reside at Loni Budruk in Taluka Rahata, District Ahmednagar. In these circumstances, when complainant alleges that the incident occurred at Nashik, then they have no connection therewith. It is, therefore, a mala fide act so as to rope in all the family members.

5. As far as first contention is concerned, it is too well settled without requiring any reiteration that matters of territorial jurisdiction and particularly in this case and the offences alleged, do not go to the root of it. Eventually if certain police station within the

territorial limits of which an incident has occurred, has the jurisdiction to investigate the offence, the police station recording the first information report ('FIR') and registering it can make it over to the said police station. The accused has no say in all this and cannot dictate as to where he should face the investigation. Moreso, when an offence is alleged to have been committed and as serious as in this case.

6. As far as second contention is concerned, it pre-supposes that all the family members have to reside together and only then they can be held prima facie guilty of cruelty and the offence culled out by Section 498-A. From a reading of that provision, we fail to see any such stipulation or requirement. In today's modern times, the harassment by the in-laws can be by various means. The sister-in-laws and the brother-in-laws need not reside together with the husband and in-laws, so as to cause harassment to the complainant-wife. Eventually individual acts attributed to all of them in this case, would indicate that prima facie their physical presence may or may not be a relevant factor. The physical presence at the place where the daughter-in-law resides, therefore cannot be made an ingredient of the offence and particularly in the absence of clear stipulation in that behalf in the provision. Once the ingredients of Section 498-A are spelt out from the allegations that are made and in the presence of several remedies including to seek a discharge from the criminal case, we are not inclined to exercise our inherent powers. We do not think that the FIR read as a whole so also the charge sheet, indicate that no offence has been committed. A prima facie case is disclosed and all the more when this Court passed a conditional ad-interim order.

7. As far as Applicants are concerned, there are remedies available and each one of them can seek discharge from the criminal case. However, their contentions, as raised before us, have obviously no merit. As a result of the above discussion, the criminal application fails and is dismissed.

(PRAKASH D. NAIK, J.)

(S.C.DHARMADHIKARI, J.)

MST