

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO.617/2016

Raghuvir s/o Ganeshrao Chakrawar and others

...Versus...

The State of Maharashtra Through Police Station Officer, Police Station Aarni,
Distt. Yavatmal and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.R. Agrawal, Advocate for applicants
Shri V.A. Thakare, Addl. P.P. for non-applicant no.1
Shri A.K. Sharma, Advocate for non-applicant no.2

CORAM : PRASANNA B. VARALE AND
ARUN D. UPADHYE, JJ.

DATE : 14.11.2017

1. Heard.
2. The applicants are before this Court seeking quashment of F.I.R. vide Crime No.383/2016 lodged at Police Station Aarni, District Yavatmal for the offence punishable under Section 498-A read with 34 of Indian Penal Code.
3. Learned Counsel for the applicants by inviting our attention to the report lodged against these applicants submitted that the marriage between non-applicant no.2 and applicant no.1 was solemnized in the year 2011 at Nanded. Learned Counsel submitted that the non-applicant no.2 alleges that she was subjected to ill-treatment on account of demand of money at the instance of these applicants at Nanded and the report is lodged at

Aarni Police Station, District Yavatmal. It is the submission of learned Counsel for the applicants that the report insofar as applicant nos.2 to 5 is concerned, is only in the form of vague and general allegations. He submitted that the report even taken on its face value fails to show any active participation of the applicant nos.2 to 5 except vague allegation of instigation. He submitted that the applicant no.2 is the mother of applicant no.1 and is in her advance age. Applicant no.3 is the sister of applicant no.1 who is also 50 years of age and is residing separately from the couple. He submitted that the applicant no.5 is the married sister of applicant no.1 and the applicant no.4 is husband of applicant no.5. He submitted that applicant nos.4 and 5 are residing at Aarni, District Yavatmal and all allegations in the report of ill-treatment relate to the place of the incident as Nanded, that is, at the matrimonial home of the non-applicant no.2. Learned Counsel for the applicants then submitted that the applicant no.1 himself was fed-up with the quarrelsome nature of non-applicant no.2, as such he lodged a report at Itwari Police Station, Nanded on 2/10/2015. Learned Counsel for the applicants submitted that though the applicant no.1 lodged the report he requested the authorities not to initiate any action against either his wife or his in-laws. He submitted that the report was submitted with a *bona fide* intention to caution the authorities. Thus, the learned Counsel for the applicants submitted that the report lodged against the applicants is nothing but an abuse of process of law and prays for quashing the report.

4. Learned Additional Public Prosecutor for non-applicant no.1 and the learned Counsel appearing for

non-applicant no.2 vehemently opposed the application. Learned Additional Public Prosecutor also made available the material collected by the investigating agency. He submitted that the investigating agency on receipt of report was set in motion and all the steps such as recording statements of witnesses are taken by the investigating agency and the charge-sheet is though ready, in view of the order of this Court dated 30/8/2016 the charge-sheet is not filed.

5. We have gone through the material placed on record as well as the material presented for our perusal by the learned Additional Public Prosecutor. Insofar as the report is concerned, there is a specific material against the applicant no.1 of his ill-treatment to the non-applicant no.2 on demand of money including physical assault by the applicant no.1. There is also a reference to the abuses by the applicant no.1 and an act of the applicant no.1 whereby the non-applicant no.2 was driven out of her matrimonial home and was left with no choice to take shelter at her parental home.

6. Considering this material, we find that there is no merit in the application insofar as applicant no.1 – Raghuvir Ganeshrao Chakrawar is concerned. Therefore, insofar as applicant no.1 is concerned, the criminal application is rejected. Insofar as other applicants are concerned, the learned Counsel was justified in submitting that except vague and general allegations against these applicants, the report is silent of any active participation of these applicants. There is also no material in the report so as to state that these applicants, i.e., applicant nos.2 to 5 ill-treated the non-applicant no.2 on particular dates or

even for some reasonable period. It is also not in dispute that the applicant no.2 is in her advance age and applicant no.5 is a married daughter of the applicant no.1 residing at her matrimonial home along with applicant no.4. Insofar as applicant no.3 is concerned, only vague allegations are made against applicant no.3 also that the applicant no.3 along with applicant nos.2, 4 and 5 instigated the applicant no.1.

7. Learned Additional Public Prosecutor made available the statements recorded. These statements are of those neighbours at the parental house of non-applicant no.2.

8. Considering this material, in our opinion, no case is made out against the applicant nos.2 to 5. Hence, by exercising our powers under Section 482 of the Code of Criminal Procedure we quash the report lodged against the applicant nos.2 to 5 at Police Station Aarni, District Yavatmal and the proceedings initiated in view of the said report. The criminal application is allowed in respect of applicant nos.2 to 5 only.

9. Learned Counsel for the applicants raises a point of territorial jurisdiction.

10. As we are of the opinion that the material against applicant nos.2 to 5 falls too short to initiate any action against these applicants including lodgment of F.I.R. and as we have allowed the application insofar as applicant nos.2 to 5 is concerned, the point of territorial jurisdiction is kept open.

The criminal application stands disposed of.

JUDGE

Wadkar

JUDGE