

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1998 OF 2018

- 1) Tukaram s/o Bhagwan Sawant,
Age-30 years, Occu:Labour,
R/o-Zola, Tq-Gangakhed,
Dist-Parbhani,
- 2) Saraswati w/o Tukaram Sawant,
Age-28 years, Occu:Household,
R/o-Zola, Tq-Gangakhed,
Dist-Parbhani.

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through Police Station Palam,
Tq-Palam, Dist-Parbhani,
- 2) Radhika W/o Shamrao Bachate,
R/o-Petpimpalgaon, Tq-Palam,
Dist-Parbhani.

...RESPONDENTS

...

Mr.J.M. Murkute Advocate for Applicants.
Mr.R.V. Dasalkar, A.P.P. for Respondent No.1.
Mr.A.N. Patil Advocate for Respondent
No.2 (Absent).

...

**CORAM: S.S. SHINDE AND
R.G. AVACHAT, JJ.**

DATE OF RESERVING JUDGMENT : 26TH FEBRUARY, 2019

DATE OF PRONOUNCING JUDGMENT: 27TH FEBRUARY, 2019

JUDGMENT [PER S.S. SHINDE, J.] :

1. Rule. Rule made returnable forthwith and heard finally with the consent of the learned counsel appearing for the parties.

2. This Application has been filed praying therein to quash and set aside the First Information Report No.75 of 2018 dated 2nd June, 2018, registered at Police Station Palam, Tq-Palam, Dist-Parbhani for the offence punishable under Section 498-A, 504, read with 34 of the Indian Penal Code, to the extent of present Applicants.

3. Learned counsel appearing for the Applicants submits that even if the allegations in the First Information Report (for short "F.I.R.") are taken at its face value and read in its

entirety, alleged offences are not disclosed against the Applicants. It is further submitted that all the allegations are omnibus in nature and no specific date, time or overt act is attributed qua each of the Applicants. It is submitted that Applicant No.2 is married sister-in-law of Respondent No.2, and Applicant No.1 is the husband of Applicant No.2. It is further submitted that both the Applicants are residing separately. Matrimonial house of Respondent No.2/ informant is at Dhamoni, Tq-Sonpeth, Dist-Parbhani and the Applicants are residing at village Zola, Tq-Gangakhed, Dist-Parbhani. Therefore, relying upon the averments in the Application, grounds taken therein and the annexures thereto, learned counsel appearing for the Applicants submits that the Application deserves to be allowed.

4. On the other hand, learned A.P.P. appearing for the State, relying upon the

allegations in the F.I.R. and also statements of the witnesses and other material collected during the course of investigation, submits that the alleged offences have been disclosed, which needs investigation and therefore, the Application may be rejected.

5. We have given careful consideration to the submissions of learned counsel appearing for the Applicants and learned A.P.P. appearing for the State. With their able assistance, we have perused the averments in the Application, annexures thereto and the investigation papers made available for our perusal by learned A.P.P.

6. Upon careful perusal of the contents of the First Information Report, there are general allegations that all the accused demanded Rs.50,000/- from the parents of the informant/ Respondent No.2, for construction of house. It is

alleged that on account of said demand, there was ill-treatment to the informant at the hands of the Applicants and other accused. It is also alleged that there was ill-treatment to the informant on the count that she was unable to perform the house-hold work properly and she was not good looking. We find considerable force in the argument advanced by learned counsel appearing for the Applicants that Applicant No.2 is married sister-in-law of the informant and Applicant No.1 is husband of Applicant No.2, and they both are residing separately. So far as the present Applicants are concerned, there are no specific allegations quoting specific instances of their involvement and therefore, further continuation of proceedings on the basis of Crime No.75 of 2018 registered on 2nd June, 2018, with Police Station Palam, Tq-Palam, Dist-Parbhani for the offence punishable under Section 498-A, 504 read with 34 of the Indian Penal Code as against Applicants

will tantamount to abuse of process of law.

7. 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 of the judgment of the Supreme Court in the case of G.V.Rao vs. L.H.V. Prasad² 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

1 (2012) 10 SCC 741

2 (2000) 3 SCC 693

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 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."

8. In that view of the matter, the Criminal Application is allowed. The First Information Report No.75 of 2018 dated 2nd June, 2018, registered with Police Station Palam, Tq-Palam, Dist-Parbhani for the offence punishable under Section 498-A, 504, read with 34 of the Indian Penal Code, is quashed and set aside, to the extent of present Applicants.

9. Rule made absolute on above terms.
Criminal Application stands disposed of,
accordingly.

[R.G. AVACHAT, J.]

asb/FEB19

[S.S. SHINDE, J.]