

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3652 OF 2018

- 1) Bhagwan s/o Hari Dhale,
Age-59 years, Occu:Agri.,
R/o-Navkasturi Apartment,
A Wing Mandal, Tiwala (Rural),
Thane, Dist-Thane,
- 2) Sunita w/o Bhagwan Dhale,
Age-56 years, Occu:Agri.,
R/o-As Above,
- 3) Sujata w/o Santosh Bagul,
Age-29 years, Occu:Household,
R/o-Andiwali, Tq-Kalyan,
Dist-Thane,
- 4) Suvarna d/o Bhagwan Dhale,
Age-27 years, Occu:Student,
R/o-Navkasturi Apartment,
A Wing Mandal, Titwala(Rural),
Thane, Dist-Thane

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through the Police Officer,
Jalna Taluka Police Station,
Tq. & Dist-Jalna,

- 2) Ujwala w/o Sandip Dhale,
Age-30 years, Occu:Household,
R/o-TV Centre, Near Income Tax
Office, Old Jalna,
Tq. & Dist-Jalna

...RESPONDENTS

...

Mr.P.P. More Advocate for Applicants.
Mr.K.S. Hoke Patil, A.P.P. for Respondent No.1.
Mr.S.D. Jaybhar Advocate h/f. Mr. D.R. Jaybhar
Advocate for Respondent No.2.

...

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

DATE OF RESERVING JUDGMENT : 28TH FEBRUARY, 2019

DATE OF PRONOUNCING JUDGMENT: 4TH MARCH, 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. 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 and overt act is attributed qua each of the Applicants. It is further submitted that Applicant No.3 is married sister-in-law of informant/Respondent No.2, who is residing separately, at her matrimonial house. It is submitted that Applicant No.1 is father-in-law and Applicant No.2 is mother-in-law of Respondent No.2. Applicant No.4 is sister-in-law of Respondent No.2, who is prosecuting her studies. It is submitted that Respondent No.2, on her own, left the matrimonial house and therefore on 10th April, 2017, husband of Respondent No.2 has given notice to her requesting to come back for cohabitation, but she has not given any positive response to the said notice. It is submitted that Respondent No.2 has filed complaint bearing S.C.C.

No.1789 of 2017, before the Judicial Magistrate, First Class, Jalna, against present Applicant Nos.2 to 4, wherein altogether different allegations are made by Respondent No.2. It is submitted that the allegations made in the F.I.R. are nothing but an abuse of process of law. 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.

3. 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 for quashing the F.I.R. may not be entertained.

4. Learned counsel appearing for Respondent No.2 submits that, all the Applicants along with husband of Respondent No.2, demanded Rs.2,00,000/- from the parents of Respondent No.2, and on account of said demand, there was ill-treatment to Respondent No.2 at the hands of the Applicants. Learned counsel further submits that, an allegations in the F.I.R. will have to be read as it is, and on disclosure of the alleged offences, it should be left to the investigating officer to investigate into the said allegations. It is submitted that during the course of investigation, sufficient material is surfaced on record which would make it clear that the allegations in the F.I.R. gets support of the said material collected during the course of investigation. It is submitted that if the allegations in the F.I.R. are read in its entirety, alleged offences qua each of the Applicants have been disclosed. It is

submitted that though Applicant No.3 is not residing in the matrimonial house of Respondent No.2, but she frequently visited the parental house and instigated other co-accused so as to ill-treat Respondent No.2. Learned counsel invites our attention to the affidavit in reply filed on behalf of Respondent No.2 and submits that the Application may be rejected.

5. We have given careful consideration to the submissions of learned counsel appearing for the Applicants, learned A.P.P. appearing for the State and learned counsel appearing for Respondent No.2. With their able assistance, we have perused the averments in the Application, annexures thereto, reply filed by Respondent No.2 and the investigation papers made available for our perusal by learned A.P.P.

6. Upon careful perusal of the contents of

the F.I.R., there are allegations that all the Applicants/ accused demanded Rs.2,00,000/- from the parents of the informant/ Respondent No.2 for purchasing new house. It is alleged that on account of said demand, there was ill-treatment to the informant at the hands of the Applicants. It appears that there are some specific allegations against the husband of the informant, but he is not applicant in the present Application. So far as the present Applicants are concerned, the allegations are omnibus and not constituting alleged offences against them. We find considerable force in the argument advanced by learned counsel appearing for the Applicants that Applicant No.3 is married sister-in-law of Respondent No.2 and she is residing separately in her matrimonial house at Andiwali, Tq-Kalyan, Dist-Thane, and Applicant No.4 is another sister-in-law of Respondent No.2, who is prosecuting her studies. We also find considerable force in the

argument of learned counsel appearing for the Applicants that the allegations made by the informant in complaint bearing S.C.C. No.1789 of 2017, filed before the Judicial Magistrate, First Class, Jalna, are altogether different than the allegations made in the F.I.R. So far Applicant Nos.1 and 2 i.e. father-in-law and mother-in-law of Respondent No.2 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.394 of 2017 registered on 29th September, 2017, with Jalna Taluka Police Station for the offences under Section 498-A, 323, 504, 506 read with 4 of the Indian Penal Code 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 heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement

1 (2012) 10 SCC 741

2 (2000) 3 SCC 693

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. For the reasons afore-stated, the Application deserves to be allowed. Hence, the Criminal Application is allowed in terms of Prayer Clause "C", to the extent of present Applicants.

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

10. Needless to observe that, the concerned

Investigating Officer can proceed against the
accused - Sandip Bhagwan Dhale, who is husband of
Respondent No.2.

[R.G. AVACHAT, J.]

asb/MAR19

[S.S. SHINDE, J.]