

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

CRIMINAL APPLICATION NO. 11 OF 2021

01 Ganesh s/o Ashok Alat

02 Ashok s/o Ganpatrao Alat

03 Sumitra w/o Ashok Alat

04 Sonali w/o Raju Kanade

05 Mahesh s/o Ashok Alat Applicants

Versus

01 The State of Maharashtra

02 Varsha w/o Ganesh Alat Respondents

Mr. D. P. Madkar, advocate for the applicants.

Mr. K. S. Patil, A. P. P. for Respondent No.1.

Mr. A. L. Kanade, advocate for Respondent No.2.

**CORAM : V. K. JADHAV AND
SANDIPKUMAR C. MORE, JJ.**

DATE : 09th December, 2021.

PC :

1 We have heard learned Counsel for the applicants for some time.

2 Learned Counsel for the applicants, on instructions, seeks leave to withdraw the application of applicant no.1 and

applicant no. 5.

3 Leave granted. Criminal Application is dismissed as against applicant no.1 – Ganesh s/o Ashok Alat and applicant no.5 – Mahesh s/o Ashok Alat.

4 By consent, application is heard finally at the stage of admission.

5 Learned Counsel for the applicants – original accused are seeking quashing of the First Information Report bearing Crime No. 0270/2020 and the proceedings bearing RCC No. 418/2020, pending before the Judicial Magistrate, First Class, Beed, for the offences punishable under Sections 498A, 323 and 504, read with Section 34 of the Indian Penal Code.

6 The learned Counsel for the applicants submits that though names of the applicants are mentioned in the First Information Report, allegations as against them are general and absurd in nature without quoting any specific incident, as such.

7 Learned Counsel for the applicants submits that all

the family members have been implicated in the present crime. Applicant no. 2 is father-in-law and applicant no.3 is mother-in-law. Applicant no.4 is the married sister-in-law of Respondent No.2. The learned Counsel submits that the allegations, which are general in nature, have been made in the complaint without quoting any specific incident. It is a case of over implication. The learned Counsel submits that the allegations have been made mainly against the husband and accused no.5 – brother-in-law, whose application, seeking quashing of the proceedings, came to be withdrawn.

8 Learned Counsel for Respondent No. 2 submits that names of the applicants are mentioned in the First Information Report with the specific role attributed to each of them. It is alleged that on account of non fulfillment of demand for Rs. 10 lakhs for purchasing plot, on 24.01.2019, she was finally driven out of the house after removing jewellery from her person. On 13.12.2019, Respondent No.2 has approached the Women's Grievance Cell, Beed. The learned Counsel submits that there is triable case against the applicants. There is no substance in the Criminal Application and the application is liable to be dismissed.

9 We have also heard the learned A. P. P. for the Respondent-State.

10 We have carefully perused the charge sheet and also gone through the contents of the complaint. It appears that the allegations against these applicants are general in nature without quoting any specific incident. Though there are allegations about unlawful demand and the cruelty meted out to Respondent No.2 on account of non fulfillment of certain demand, however, absurd allegations have been made against the present applicants. It is the case of over implication.

11 In the case of *Gita Mehrotra and others v. State of U.P. and others*, reported in AIR 2013 SC 181, the Supreme Court has observed that “Courts are expected to adopt a cautious approach in matters of quashing specially in cases of matrimonial dispute whether the FIR in fact discloses commission of an offence by the relatives of the principal accused or the FIR *prima facie* discloses a case of over-implication by involving the entire family of the accused at the instance of the complainant, who is out to settle her scores arising out of the teething problem or skirmish of domestic bickering while settling down in her new matrimonial

surrounding.”

12 In the case of *Neelu Chopra and others v. Bharti*, reported in 2010 CrLJ 448, the Supreme Court has observed that, “In order to lodge a proper complaint, mere mention of the sections and the language of those sections is not be all and end of the matter. What is required to be brought to the notice of the Court is the particulars of the offence committed by each and every accused and the role played by each and every accused in committing of that offence. The complaint in the instant case is sadly vague. It does not show as to which accused has committed what offence and what is the exact role played by these appellants in the commission of offence. There could be said something against Rajesh, as the allegations are made against him more precisely but he is no more and has already expired. Under such circumstances, it would be an abuse of process of law to allow the prosecution to continue against the aged parents of Rajesh, the present appellants herein on the basis of vague and general complaint which is silent about the precise acts of the appellants”.

13 In the case of *Taramani Parakh v. State of Madhya Pradesh and others*, reported in (2015) 11 SCC 260, in para 10 the

Supreme Court has made the following observations:

“10. The law relating to quashing is well settled. If the allegations are absurd or do not make out any case or if it can be held that there is abuse of process of law, the proceedings can be quashed but if there is a triable case the court does not go into reliability or otherwise of the version or the counter-version. In matrimonial cases, the courts have to be cautious when omnibus allegations are made particularly against relatives who are not generally concerned with the affairs of the couple. We may refer to the decisions of this Court dealing with the issue.”

14. From a reading of the complaint, it cannot be held that even if the allegations are taken as proved no case is made out. There are allegations against Respondent 2 and his parents for harassing the complainant which forced her to leave the matrimonial home. Even now she continues to be separated from the matrimonial home as she apprehends lack of security and safety and proper environment in the matrimonial home. The question whether the appellant has in fact been harassed and treated with cruelty is a matter of trial but at this stage, it cannot be said that no case is made out. Thus, quashing of proceedings before the trial is not permissible.

15. The decisions referred to in the judgment of the High Court are distinguishable. In **Neelu Chopra v. Bharti, (2009) 10 SCC 184**, the parents of the husband were too old. The husband Rajesh had died and main allegations were only against him. This Court found no cogent material against the other accused. In **Manoj Mahavir Prasad Khaitan v. Ram Gopal Poddar, (2010) 10 SCC 673** the appellant before this Court was the brother of the daughter-in-law of the accused who lodged the case against the accused for theft of jewellery during pendency of earlier Section 498-A IPC case. This Court found the said to be absurd. In **Geeta Mehrotra v. State of U.P. (2012) 10 SCC 741**, case was against brother and sister of the husband. Divorce had taken place between the parties. The said cases neither purport to nor can be read as laying down any inflexible rule beyond the principles of quashing which have been mentioned above and applied to the facts of the cases therein which are distinguishable. In the present case the factual matrix is different from the said cases. Applying the settled principles, it cannot be held that there is no triable case against the accused.”

14 It is well settled that if the allegations are absurd in nature and no case is made out, proceedings are liable to be

quashed. In the instant case, even if the allegations as against these applicants are held to be proved, no case is made out. It is a case of over implication since all the family members have been implicated in the present crime.

15 In view of the same and in terms of the ratio laid down by the Hon'ble Supreme Court in the afore-cited cases, we proceed to pass the following order:

(i) Criminal Application is accordingly allowed in terms of prayer clause "B" to the extent of applicant no. 2 – Ashok s/o Ganpatrao Alat, applicant no.3 – Sumitra w/o Ashok Alat and applicant no. 4- Sonali w/o Raju Kanade.

16 Criminal Application is accordingly disposed of.

(SANDIPKUMAR C. MORE)
JUDGE

(V. K. JADHAV)
JUDGE

adb