

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

CRIMINAL APPLICATION NO. 133 OF 2021

01 Kisor Maroti Satpute

02 Maroti Mahadevo Satpute

03 Reshma Raj Gawali

04 Chetan Maroti Satpute

05 Baburao Shankar Wavhal

06 Babita Baburao Wahal

07 Sheshrao Shankar Wavhal

08 Sunita Sheshrao Wavhal

09 Bharat Shivnath Garad

10 Usha Bharat Garad

11 Savitri Rambhau Korade

Applicants

Versus

01 State of Maharashtra

02 Rama Kishor Satpute

Respondents

Mr. Vishal A. Bagdiya, advocate for the applicants

Mr. S. J. Salgare, APP for Respondent No.1.

Mr. V. P. Savant, advocate for Respondent No.2.

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

DATE : 25th November, 2021.

PC :

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

2 We have heard learned Counsel for the applicants for some time. Learned Counsel for the applicants, on instructions, seeks leave to withdraw the application of applicant no.1 – Kisor Maroti Satpute, applicant no.2-Maroti Mahadevo Satpute, applicant no.3 – Reshma Raj Gawali and applicant no.4 – Chetan Maroti Satpute. Leave granted. Application is dismissed as withdrawn as against applicant no.1 – Kisor Maroti Satpute, applicant no.2-Maroti Mahadevo Satpute, applicant no.3 – Reshma Raj Gawali and applicant no.4 – Chetan Maroti Satpute.

3 Applicants -original accused are seeking quashing of the First Information Report bearing Crime No.0196/2019, registered with Talwada Police Station, District Beed, for the offence punishable under Sections 498A, 323, 504 read with Section 34 of the Indian Penal Code. During the pendency of this application, charge sheet has been submitted. The applicants are, therefore, seeking quashing of the proceedings bearing RCC No.48 of 2021, pending before the Judicial Magistrate, First Class, Gevrai,

District Beed.

4 Learned Counsel for the applicants submits that applicant no.5 – Baburao, applicant no.6 – Babita, applicant no.7 – Sheshrao, applicant no.8 – Sunita, applicant no.9 Bharat, applicant no.10 – Usha and applicant no.11 – Savitri are the distant relatives of husband of Respondent No.2 and the allegations as against them are general in nature without quoting any specific incident as such. The learned Counsel submits that applicant no. 5 is maternal father-in-law, applicant no. 6 is maternal mother-in-law, applicant no.7 – another maternal father in law, applicant no.8 – is wife of applicant no.7, applicant no.9 is husband of aunt of applicant no.1-Kisor, applicant no.10 is maternal aunt of applicant no.1 and applicant no.11 is maternal grand mother. The learned Counsel submits that this case is a classic example of over implication since almost all the family members of the husband, including distant relatives, have been implicated in connection with the present crime.

5 Learned Counsel for Respondent No.2, though pointed out that at present Respondent No.2 is not responding, however, on the basis of the complaint and the charge sheet submitted, he

submits that names of applicants no.5 to 11 are mentioned in the First Information Report with specific role attributed to each of them. The learned Counsel submits that there is a triable case against them. The learned Counsel submits that there is no substance in the application and the application is liable to be dismissed.

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

7 We have carefully gone through the contents of the complaint and also perused copy of the charge sheet. Applicants no. 5 to 11 are the distant relatives of the husband of Respondent No.2. Allegations have been made only against applicants no.1 to 4. However, their application seeking quashing of the proceedings came to be dismissed as withdrawn. So far as applicants no. 5 to 11 before us are concerned, though their names are mentioned in the First Information Report, however, allegations against them are general in nature without quoting any specific incident. It further appears that along with co-accused persons, almost all the family members, including distant relatives of the husband, have been implicated in this case. This is a case of over implication.

8 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.”

9 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”.

10 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.”

11 It is well settled that if the allegations are absurd in nature and if no case is made out, the proceedings are liable to be quashed. In the instant case, even if the allegations, as against applicants no. 5 to 11, are held to be proved, no case is made out. There is no triable case against the applicants. In view of the same, if the proceedings, as against applicants no. 6 to 9 are permitted to be continued, it will be an abuse of Court process.

12 In view of the above and in view of the ratio laid down by the Hon'ble Supreme Court in the aforesaid case, we proceed to pass the following order:

(i) Criminal Application is allowed in terms of prayer clauses “B”, “B-1” and “B-2”, to the extent of applicants no.5 to 11.

13 Criminal Application is accordingly disposed of.

(SANDIPKUMAR C. MORE)
JUDGE

(V.K.JADHAV)
JUDGE

adb