

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

944 CRIMINAL APPLICATION NO.199 OF 2020

1. Mahesh Punjaram Deore
2. Jyoti Punjaram Deore
3. Punjaram Sonu Deore
4. Archana Yashwant Thombare ...Applicants

Versus

1. The State of Maharashtra
2. Vidya Mahesh Deore ...Respondents

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Advocates for Applicants : Mr. J. V. Deshpande and S. N. Dudhate
APP for Respondent-State: Mr. K.S. Patil
Advocate for Respondent No.2 : Mr. Patil Atmaram J.
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**CORAM : V. K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.
DATED : 12th OCTOBER, 2021**

PER COURT:-

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 Mahesh Punjaram Deore, applicant No.2 Jyoti Punjaram Deore and applicant No.3 Punjaram Sonu Deore. Leave granted. The application of applicant No. 1 Mahesh Punjaram Deore, applicant No.2 Jyoti Punjaram Deore and applicant No.3 Punjaram Sonu Deore is dismissed as withdrawn.

3. The applicant No.4 Archana is an accused in connection with crime No. 234 of 2019 registered with Mohadi police station for the offences punishable under Sections 498-A, 323, 504, 506 r.w. 34 of I.P.C.. During pendency of this application charge sheet has been submitted and the amendment is carried out for quashing of criminal proceedings also.

4. Learned counsel for the applicant submits that the applicant is sister-in-law and doctor by profession, residing in Mumbai. Learned counsel submits that the allegations as against her are general in nature without quoting any specific incident. The learned counsel submits that allegations have been made mainly against husband, father-in-law and mother-in-law, whose application seeking quashing of F.I.R. and criminal proceedings came to be withdrawn today. Learned counsel submits that this is a case of over implication.

5. Learned counsel for respondent No.2 submits that the name of applicant is mentioned in the F.I.R. with a specific role attributed to her. Learned counsel submits that the applicant is a divorcee and she kept her children with her parents. She used to come to her parents' house to meet her children. Learned counsel submits that on every such visit, she used to instigate other co-accused persons to ill-treat respondent No.2-informant for various reasons, including non fulfillment of demand of certain amount for opening new company for co-accused husband.

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

7. We have carefully gone through the allegations made in the complaint and also perused the charge sheet. Though the name of applicant is mentioned in the F.I.R. however, omnibus allegations have been made against her without quoting any specific incident. It further appears that the allegations have been made mainly against co-accused husband, father-in-law and mother-in-law, however, their application seeking quashing of F.I.R. and criminal proceedings came to be withdrawn today. The applicant is doctor by profession residing at Mumbai. It appears that all family members have been implicated in connection with the present crime. It further appears that the allegations as against the applicant are absurd in nature.

8. In the case of ***Geeta Mehrotra and others v. State of U.P. and others***, reported in AIR 2013 SC 181, the Supreme Court has observed that “the 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 vs. Bharti***, reported in 2010 Cr.L.J. 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 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 Vs. State of Madhya Pradesh and others***, reported in **(2015) 11 SCC 260**, in para 10, 14 and 15 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 made 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 No.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, 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 other accused. In Manoj Mahavir, 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 498A case. This Court found the said case to be absurd. In Geeta Mehrotra, 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 and do not make out any case the proceeding can be quashed. In the instant case, from reading of complaint, even if the allegations are taken as proved, no case is made out against the applicant. In the aforesaid case the Supreme court has observed that 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.

12. In view of above and also in terms of ratio laid down by the Supreme Court in the above cited cases, we proceed to pass the following order:-

O R D E R

- I. Criminal application is allowed in terms of prayer clause “B” and “B-1” to the extent of applicant No.4 Archana Yashwant Thombare.
- II. Criminal application is disposed of.

(SHRIKANT D. KULKARNI, J.)

(V. K. JADHAV, J.)

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