

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

933 CRIMINAL APPLICATION NO.331 OF 2020

RAMESH S/O. SHEKUJI MANJULE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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Advocate for Applicants : Mr. Naik Dhananjay A.
APP for Respondent : Mr. R V Dasalkar
Advocate for Respondent 2 : Smt. Suwarna Zaware

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CORAM : V.K. JADHAV & SHRIKANT D. KULKARNI, JJ.
Dated: October 08, 2021

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PER COURT :-

1. The learned counsel for the applicants, on instructions, seeks leave to withdraw the application of applicant no.1-Ramesh Shekuji Manjule, 2-Chandabai Ramesh Manjule and 3-Amol Ramesh Manjule, with the liberty to them to file discharge application before the trial court.

2. Leave granted.

3. Application of applicant no.1-Ramesh Shekuji Manjule, 2-Chandabai Ramesh Manjule and 3-Amol Ramesh Manjule is hereby dismissed as withdrawn,

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with the liberty to each of them to file application for discharge before the trial court in the pending case.

4. Applicant nos.4 to 7 are the accused in connection with the FIR No.216 of 2019 registered with Rahata Police Station, Tq. Rahata, District Ahmednagar for the offences punishable under sections 498-A, 406, 323, 504, 506 r/w 34 of the Indian Penal Code. At present investigation is complete, charge-sheet came to be submitted before the Court and case is registered as RCC No.456 of 2020, which is pending before the 2nd Jt. Judicial Magistrate First Class, Rahata, District Ahmednagar.

5. By way of this application, the applicant nos.4 to 7 are seeking quashing of the FIR as well as criminal proceedings.

6. Learned counsel for the applicants submits that, though names of the applicant nos.4 to 7 are mentioned in the FIR, allegations are absurd in nature. Learned counsel submits that respondent no.2/informant has

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made allegations against them with an ulterior motive of wreaking the vengeance. Learned counsel submits that applicant no.4 Arati is married sister-in-law residing with her husband applicant no.5 Ketan @ Bhausahab Gaikwad at Gangapr, District Aurangabad. The applicant nos.6 and 7 are the maternal uncles, resides at Wadarwada, Tq. Kannad, District Aurangabad. Learned counsel submits that, it is a case of over implication.

7. Learned counsel for respondent no.2 submits that, not only names of the applicants are mentioned in the FIR, however, specific role has been attributed to each of them by quoting the specific incident. Learned counsel submits that applicants have also abused respondent no.2/informant and threatened her in the event if the demand made by co-accused is not fulfilled. Further, they have also instigated co-accused persons to subject her to cruelty till the demand of Rs.10 Lakh is fulfilled.

8. We have also heard the learned APP for the Respondent-State.

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9. We have carefully gone through the allegations made in the complaint and also the charge-sheet. It appears that the allegations have been made mainly against the husband, father-in-law, mother-in-law and brother-in-law, whose application seeking quashing of the criminal proceedings came to be withdrawn today. So far as the applicant no.4 Aarti is concerned, she is a married sister-in-law and even her husband applicant no.5 Ketan @ Bhausahab Gaikwad is also implicated as accused in connection with the present crime. Applicant nos.6 and 7 are the maternal uncles. All the applicants are residing at different places. It is a classic example of over implication.

10. 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

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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.”

11. 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

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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.”

12. 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.”

13. In the instant case, as far as the applicants before us are concerned, the allegations against them are absurd and do not make out any case. From reading of the complaint and even allegations as against them are taken as proved, no case is made out. In the above cited case of Taramani, the Supreme Court has observed that in the matrimonial cases, the Courts have to be cautious when the omnibus allegations are made particularly against the relatives, who are not generally concerned with the affairs of the couple. In this case, co-accused husband has made demand of Rs.10.00 Lakh (Rs. Ten Lakh) and other family members residing with him i.e. his parents and his brother had supported him for making said demand. As per the allegations made in the complaint, all of them have subjected the

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respondent no.2/informant with cruelty on account of non-fulfillment of the said demand. So far as the applicants before us are concerned, allegations are general in nature. Though, one incident is quoted, however, the allegations are absurd in nature. In view of the above and in terms of the ratio laid down by the Supreme Court, we proceed to pass the following order.

ORDER

- I. Criminal application is allowed in terms of prayer clause “C” and “C-1” against the applicants before us.
- II. Criminal application accordingly disposed off.

(SHRIKANT D. KULKARNI, J.) (V.K. JADHAV, J.)

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