

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

CRIMINAL APPLICATION NO. 310 OF 2021

Ashwini W/o Sunil Chavan
and another

... Applicants

Versus

The State of Maharashtra
and another

... Respondents

....

Mr. Dhananjay M. Shinde, Advocate for the Applicants
Mr. K.S. Patil, APP for Respondent No.1 / State
Mr. S.S. Londhe Advocate for Respondent No.2

....

**CORAM : V. K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 20th OCTOBER, 2021

PER COURT:-

1. With consent of the parties heard finally, at admission stage.
2. The applicants are seeking quashing of the FIR so also quashing of the criminal proceedings.
3. Learned counsel for the applicants submits that though names of the applicants are mentioned in the F.I.R., however, general allegations have been made against them without quoting any specific incident. Learned counsel submits that

applicant no.1 is the married sister-in-law who resides alongwith her husband-applicant no.2 at Pune. Respondent no.2 was cohabiting with her husband at Patan Bori, Taluka Pandharkawda, District Yavatmal. Learned counsel submits that the allegations have been made mainly against the co-accused-husband and also the father-in-law and mother-in-law, who are not before this Court as applicants. Learned counsel submits that the allegations as against the applicants are absurd in nature and it is a case of over-implication.

4. Learned counsel for the respondent no.2 submits that the names of the applicants are mentioned in the F.I.R. with a specific role attributed to them. It has been specifically alleged in the complaint that the applicants and the husband used to ill-treat respondent no.2 for various reasons including non-fulfillment of the demand of Rs.5,00,000/- to establish the business.

5. We have also heard the learned APP for respondent no.1 / State.

6. We have carefully gone through the complaint, so also the charge-sheet. Though we find names of the applicants

mentioned in the F.I.R., however, no specific allegations have been made against them quoting any specific incident. It further appears that allegations have been made mainly against co-accused husband and his parents. It has been alleged in the complaint that the co-accused husband used to extend beating and ill-treatment to respondent no.2-informant on account of non-fulfillment of demand of Rs.5,00,000/- to establish the business. So far as the applicants before us are concerned, applicant no.1 is the married sister-in-law residing at Pune along with her husband-applicant no.2. It is not clear as to on what date and time the applicants had been to her matrimonial home and instigated the co-accused persons to ill-treat her on account of non-fulfillment of the said demand. It is a classic example of over-implication. The allegations as against the applicants are general in nature without quoting any specific incident.

7. 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.”

8. 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”.

9. In the case of *Taramani Parakh v. 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 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.

11. to 13.

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.”

10. It is needless to mention that if the allegations are absurd or do not make out any case, the proceedings can be quashed. From a reading of the complaint and even on perusal of the charge-sheet, even if the allegations as against the applicants are taken as proved, no case is made out against them. It is not triable case against them.

11. Thus, considering the entire aspects of the case and the ratio laid down by the Honourable Supreme Court in the aforesaid cases, we proceed to pass the following order :

ORDER

- (i) Criminal Application is allowed in terms of prayer clauses (B) and (C).
- (ii) Criminal Application is accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

[V. K. JADHAV]
JUDGE

S.P Rane