

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

925 CRIMINAL APPLICATION NO.561 OF 2021

SUNIL PRALHAD SHEWALE AND OTHERS
VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr.Ajay Fulpagar h/f Mr.P.R. Katneshwarkar &
Ms.A.S. Jadhav, Advocates for the applicants
Mr.S.D. Ghayal, APP for respondent no.1.

...

CORAM : RAVINDRA V.GHUGE
AND
B.U.DEBADWAR,JJ.

DATE : 16th March, 2021

PER COURT :-

1. By this application, the applicants
have put-forth prayer clause "A" as under :-

"A. This Hon'ble Court may be pleased
to quash and set aside FIR
No.0013/2021 registered at Police
Station Umri, Dist.Nanded dated
20/01/2021 registered u/s. 498-A, 323,
504 and 34 of Indian Penal Code."

2. We have considered the strenuous
submissions of the learned Advocate for the
applicants and the learned Prosecutor on
behalf of Respondent No.1-State. With their

assistance, we have gone through the F.I.R. and have considered the material available before us.

3. Applicant no.1 is the legally wedded husband of respondent no.2. Applicant no.2 is her mother-in-law. Applicant no.3 is the sister of applicant no.1.

4. It is stated in the F.I.R. dated 20.01.2021 that, after the informant got married to applicant no.1 Sunil, she proceeded to her marital home at Mumbai, as her husband was in the paramedical staff in K.E.M. Hospital. The applicants as well as the informant reside in the same town namely Umri, Dist. Nanded.

5. It is stated in the F.I.R. that post marriage on 21.05.2019, she had marital bliss for a very short period. The mother-in-law and the sister-in-law, along with her husband, started demanding an amount of Rs.5,00,000/- for purchasing a Car. The father of the informant had paid an amount of Rs.3,00,000/- to the husband towards dowry prior to her marriage. The marriage expenses were also incurred by her father. Certain

utensils and other gifts, which would be helpful in the married life of the informant, were also supplied by her father.

6. It is specifically stated that the mother-in-law and sister-in-law were residing with the informant and her husband at Mumbai and all of them were residing together in the same residential accommodation. After about three months, the husband started complaining of the discomfort in travelling from his residence to the work place and asked the informant to fetch Rs.5,00,000/- from her father. The mother-in-law and sister-in-law started pestering her on the ground that she was not a good cook and she could not prepare tasty vegetables. On the occasion of Diwali-2019, all the accused and the informant travelled together to town Umri, since all of them live in the same town. She was warned that she should bring an amount of Rs.5,00,000/- for purchasing a Car, failing which, she need not return to her marital home.

7. It is further stated in the F.I.R. that close relatives and acquaintances of both the sides stepped in to resolve the

marital discord and tried to pacify the applicants, but could not succeed. Momentarily, the informant resided in the marital home in Venkatesh Nagar in the same town Umri, where her mother-in-law and daughter-in-law started abusing her and caused mental and physical agony. Finally, she was driven out of the house. Again on 20.07.2020, acquaintances of both the sides tried to reconcile the couple and mother-in-law and sister-in-law. It is in this backdrop, that the informant lodged an F.I.R. on 20.01.2021.

8. The contention of the applicants is that the informant and the husband have preferred a Petition for dissolution of marriage by mutual consent under section 13(b) of the Hindu Marriage Act, 1955 on 05.12.2020. Thereafter, the F.I.R. has been registered, which is by way of an after thought.

9. We find that, by order dated 01.02.2021, passed by the learned Additional Sessions Judge, Bhokar, anticipatory bail has been granted to all the three accused.

10. Needless to state, the discretionary powers of this Court have to be exercised judiciously, while causing interference in an F.I.R. so as to quash the same. Such discretion is not to be exercised casually. It is only after this Court comes to a conclusion that no offence has been made out and in the absence of any material against the accused, that this Court could exercise its discretion.

11. In *Geeta Mehrotra and another vs. State of Uttar Pradesh and another, (2012) 10 SCC 741*, the Honourable Supreme Court has held that in the absence of any specific allegation and an FIR, prima facie, indicating no case against the co-accused, the Court would have the power to quash an FIR.

12. On noticing the contents of the F.I.R., we do not find that our discretion could be exercised in this case. This application is, therefore, rejected.

(B.U.DEBADWAR,J.)

(RAVINDRA V. GHUGE,J.)