

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

953 CRIMINAL APPLICATION NO.732 OF 2021

VISHWANATH MADHAVRAO SABNE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Mr. N.E. Deshmukh, Advocate for applicants
Mr. R.V. Dasalkar, APP for respondent – State
Mr. Suresh P. Pandav, Advocate for respondent no. 2
...

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

DATE : 24TH NOVEMBER 2021

ORAL ORDER :

1. Heard finally, by consent at the admission stage.
2. The applicants – original accused are seeking quashing of the FIR no. 74 of 2021 registered with MIDC Police Station, Latur, Dist. Latur for the offences punishable under section 498-A, 323, 504, 506 r/w. 34 of the Indian Penal Code. During the pendency of this Criminal Application, chargesheet has been submitted. Learned counsel for the applicants has carried out the amendment. The applicants are also seeking quashing of the criminal proceedings bearing RCC no. 501 of 2021 pending before the Chief Judicial Magistrate, Latur.
3. The learned counsel for the applicants submits that the allegations have been mainly against the husband, the father-in-law and mother-in-law of respondent no. 2, who are not applicants before the Court. Applicant no. 1 – Vishwanath is the maternal uncle of the

husband of respondent no. 2. Applicant no. 2 – Asha is the married sister-in-law of respondent no. 2 and applicant no. 3 is the husband of applicant no. 2 – Asha. Learned counsel has taken us through the entire chargesheet and has pointed out from the allegations made in the complaint, that the allegations as against the applicants are general in nature without narrating any specific incident. Learned counsel submits that even the allegations as against the applicants are absurd in nature. Learned counsel submits that the marriage was performed way back in the year 2015 and after the marriage, the respondent no. 2 has started co-habiting with her husband in her matrimonial home at Latur. Her husband is an Engineer and in the private employment at Delhi. It has been alleged in the complaint that she was treated well for a period of one month after the marriage, however, thereafter, she was taken to Delhi by her husband. Respondent no.2 has delivered a female baby in the year 2017. Learned counsel has pointed out from the allegations in the complaint that without quoting any date or year, it has been simply alleged in the complaint that all the applicants and the co-accused have asked respondent no.2 to bring Rs.20,00,000/- from the parents for purchasing the house. It has also been alleged, without referring any specific name that she was also scolded for giving birth to a female child. It has been stated in the complaint itself that in the year 2019, when the complaint was lodged and when the parties were called in the women's grievance redressal committee, a compromise has been taken place and the respondent no.2 was taken to her matrimonial home for further cohabitation. It has been merely stated in the complaint that

husband of the respondent no. 2 went to Delhi on 03-11-2021. It has been merely alleged in the complaint that thereafter, the applicants herein and the co-accused persons have given threats to respondent no. 2 to bring Rs.20,00,000/- or otherwise she will be killed. Learned counsel submits that during the course of investigation, the statements of the parents of respondent no. 2 have been recorded, however, they have no first hand knowledge of the alleged ill-treatment and on the basis of the disclosure made to them by respondent no. 2, they have stated about the ill-treatment meted to respondent no.2 at Delhi.

4. Learned counsel for applicants submits that so far as applicants are concerned, applicant no. 2 is the married sister-in-law, Lecturer by occupation. She got married way back in 1999 and she resides at Aurangabad along with her husband – applicant no. 3. Applicant no. 3, who is husband of applicant no. 2, is Executive Engineer in Irrigation Department. Applicant no. 4 is a Dentist by profession. She got married in the year 2012. She resides with the husband and family members of her husband at Ahmednagar since her marriage. Learned counsel submits that the allegations as against them are absurd. There are no specific incidents quoted, as to when these persons had been to matrimonial home of the respondent no. 2 and demanded the said amount and also given threats to respondent no.2, if the said demands are not fulfilled. Learned counsel submits that it is a classic example of over-implication and almost all the family members have been implicated in connection with the present crime and even the

maternal uncle of husband of respondent no.2 is also not spared. Applicant no.1 is the maternal uncle of husband of respondent no. 2, who is Teacher by occupation, serving at village Aarvi, Tq. and District – Latur.

5. Learned counsel for the respondent no.2 submits that names of all the applicants are mentioned in the FIR without specific role attributed to each of them. Though, after the marriage, respondent no. 2 started residing in her matrimonial home, however, she went to Delhi to stay with her husband and even in the year 2017, she gave birth to a female child. Learned counsel submits that the respondent no.2 was subjected to ill-treatment after the birth of the female child for two reasons. The applicants and the co-accused have demanded Rs.20,00,000/- for purchasing the house and also for the reason that she gave birth to a female child instead of a male child. However, the matter was compromised and again on 30-10-2019, the respondent no. 2 has started co-habiting with her husband in her matrimonial home. On 03-11-2021, when her husband left for Delhi, the applicants and the co-accused have again demanded Rs.20,00,000/- for purchasing the house and further gave threats to kill her, if the demand is not fulfilled. She was also subjected to ill-treatment on the count that she gave birth to a female child. Learned counsel submits that there is a triable case against the applicants, there is no substance in the Criminal Application and the same is liable to be dismissed.

6. We have also heard learned APP for the respondent – State. We have carefully gone through the contents of the complaint and also the chargesheet.

7. The applicants herein are residing at different places like Aurangabad, Ahmednagar etc. However, the allegations as against them are general in nature without quoting any specific incident. We have also mentioned the relations of the applicants with the respondent no. 2. The allegations have been made mainly against the co-accused – husband, father-in-law and mother-in-law and they are not the applicants before us. It is the case of over-implication. The respondent no. 2 has implicated almost all the family members, including the married sisters-in-law and even the husband of married sister-in-law – Asha.

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. In the above cited case, the Supreme Court has observed that the Courts are expected to adopt cautious approach in the matters of quashing of FIR, specially in the cases of matrimonial disputes whether the FIR, in-fact, discloses commission of an offence by the relatives of the principal accused or the FIR, prima-facie, discloses over-implication of the accused at the instance of the complainant. It is well settled that the allegations are absurd in nature and do not make out any case, the proceedings can be quashed. From reading the complaint and after going through the chargesheet in its entirety, even if the allegations as against the applicants are taken as proved, no case is made out as against them. There will be abuse of the process of the Court, if the proceeding remain continued against them.

12. In view of the above and in terms of the law laid down in the above cited case, we proceed to pass the following order :-

ORDER

I) Criminal Application is allowed in terms of prayer clause (D).

II) Criminal Application is accordingly disposed of.

[SANDIPKUMAR C. MORE, J.]

[V.K. JADHAV, J.]

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