

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

937 CRIMINAL APPLICATION NO.801 OF 2021

ANANT GIRJAPPA MULGIR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. Nitin Jagadale h/f Mr. V. B. Jogdand
APP for Respondent No.1 : Mr. G. O. Wattamwar
Advocate for Respondent No.2 : Mr. Manish P. Tripathi

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**CORAM : V. K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.
DATED : 28th SEPTEMBER, 2021**

PER COURT:-

1. Leave to correct prayer clause "B".
2. Learned counsel for the applicants, on instructions, seeks leave to withdraw the application of applicant no.1 Anant s/o Girjappa Mulgir, applicant no.2 Girjappa s/o Dudhaji Mulgir and applicant no.3 Jijabai @ Rukhminibai w/o Girjappa Mulgir.
3. Leave granted. The application of applicant nos. 1 to 3 are dismissed as withdrawn.

4. The applicants are the accused in connection with crime no. 444 of 2020. At present the charge-sheet has been submitted and the case is registered as R.C.C. No. 14 of 2021. Applicant Nos. 4 to 7 are seeking quashing of the criminal proceedings so also the FIR.

5. Learned counsel for the applicants submits that applicant no. 4 Balasaheb is the brother-in-law and applicant no.5 Shilpa is his wife. Applicant no.4 is serving as a teacher in Zilla Parishad school at Yavatmal. Applicant no.4 along with applicant no.5 resides at Yavatmal. Applicant no.6 Lalita is the widow and she resides at village Shelgaon in a different house. Applicant no.6 Lalita is the wife of the brother-in-law of respondent no.2 and her husband is no more. Learned counsel submits that applicant no.7 Daivshala @ Meera is the married sister-in-law. She resides with her husband and other family members at her matrimonial home at post Savangi, Taluka Phaltan, District Satara. Learned counsel submits that omnibus allegations have been made against the applicants without quoting any specific incident. Learned counsel submits that the allegations have been made against the co-accused husband, the father-in-law and the mother-in-law, whose application seeking quashing of the FIR and the criminal proceedings came to be

withdrawn today. Learned counsel submits that it is not clear from the allegations made in the complaint so also in the charge-sheet as to when and how applicant nos. 4 to 7 had been to the matrimonial home of respondent no.2 and subjected her to cruelty as defined under Section 498-A of IPC. Learned counsel submits that as per the allegations made in the complaint, respondent no.2-informant resides with her parents since 2014 and thus, for near about six years till filing of the complaint, there was no reason for these applicants to subject her to cruelty in any form.

6. Learned counsel for respondent no.2 submits that the allegations have been made against all the applicants including the co-accused persons. Even though it was marriage of the year 2009, respondent no.2-informant was subjected to ill-treatment on account of non-fulfillment of the demands for the purpose of transfer so also for the medical expenses of the handicapped son. It has been specifically alleged in the complaint that respondent no.2 was subjected to abuses and beating on account of non-fulfillment of the said demands. Learned counsel submits that the applicants herein, though are residing at different places, however, they had been to their parents' house and subjected respondent no.2 to

cruelty when she was cohabiting with co-accused Anant.

7. We have also heard learned APP for the respondent-State.

8. We have carefully gone through the allegations made in the complaint and also perused the charge-sheet. It appears from the allegations made in the complaint that in the year 2014 itself, respondent no.2-informant started residing with her parents. We hardly find any reason for applicant Nos. 4 to 7 who are residing at different places, to go to their parents' house for extending ill-treatment to the respondent-informant. There are omnibus allegations against applicant Nos. 4 to 7 without quoting any specific incident.

9. 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.”

10. 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”.

11. In the instant case, it is a classic example of over-implication of all the family members. Furthermore, the allegations are vague in nature without mentioning any specific acts and role of the applicants herein in commission of the crime.

12. In view of the above, and in terms of the ratio laid down by the Apex Court in the aforesaid two cases, we are inclined to quash the criminal proceedings and the FIR against applicant nos. 4 to 7. Hence, the following order :

ORDER

I. The Application is hereby allowed in terms of prayer clause “B” to the extent of applicant no. 4 Balasaheb s/o Girjappa Mulgir-original accused no. 4, applicant no.5 Shilpa w/o Balasaheb Mulgir-original accused no.5, applicant no.6 Lalita widow/o Gangadhar Mulgir-original accused no.6 and applicant no. 7 Daivshala @ Meera w/o Dinanath Beldar-original accused no.7.

II. The criminal application is accordingly disposed off.

(SHRIKANT D. KULKARNI, J.)

(V. K. JADHAV, J.)