

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

943 CRIMINAL APPLICATION NO.1112 OF 2020

1. Rajashree w/o. Baswant Narwade
(Sister in law)
Age-41 years, Occ-Service,
R/o. Bharat Nagar, Sugaon,
Tq. and Dist. Nanded.
2. Jayshree w/o. Chandramani Sawant
(Sister in law)
Age- 47 years, Occ – Business,
R/o. Jalna.
3. Shivdhanbai w/o. Dharmraj Vavhale
(mother in law)
Age-73 years, Occu – Nil,
R/o. Samta Nagar, Tq. and Dist.
Nanded.
4. Anil s/o. Dharamraj Wavale,
(husband of complainant)
Age-35 years, Occ – Private Service,
R/o. Samta Nagar,
Tq. and Dist. Nanded. .. **APPLICANTS**

VERSUS

1. The State of Maharashtra
Through Bhagyanagar Police Station,
Tq. and Dist. Nanded.
2. Priyanka w/o. Anil Wavhale,
Age: 30 years, Occ : Private Service,
R/o. Jotiba Nagar, Bhagyanagar,
Tq. and Dist – Nanded. .. **RESPONDENTS**

...
Mr.M.V.Thorat, Advocate for the applicants.
Mr.R.D.Sanap, APP for the respondent – State.
Ms.Sushma T.Jadhav, Advocate holding for
Mr.P.D.Suryawanshi, Advocate for respondent no.2.
...

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

DATE : 21.10.2021

PER COURT :

- 1] Leave to add R.C.C. number in prayer clause A-1.
- 2] We have heard learned counsel for the applicants for sometime.
- 3] Learned counsel for the applicants, on instructions, seeks leave to withdraw the application of applicant no.3 Shivdhanbai Dharmraj Vavhale and applicant no.4 Anil Dharamraj Wavale.
- 4] Leave granted. Application of applicant no.3 Shivdhanbai Dharmraj Vavhale and applicant no.4 Anil Dharamraj Wavale is dismissed as withdrawn.

5] The remaining applicants are seeking quashing of the FIR vide Crime No. 264 of 2020, dated 16.06.2020, registered with Bhagyanagar Police Station, Taluka and District Nanded, for the offences punishable under Sections 498-A, 323, 504 and 506 r/w. 34 of the IPC. The applicants are also seeking quashing of the proceedings since during pendency of this application, the charge sheet has been submitted.

6] Learned counsel for the applicants submits that though the names of the applicants are mentioned in the FIR, however, no specific role has been attributed to them. There are general allegations. Learned counsel submits that the allegations have been made mainly against co-accused husband - Anil Wavale and mother-in-law Shivdhanbai, whose application seeking quashment of the FIR came to be withdrawn today. Learned counsel submits that applicant no.1 is a married sister-in-law, resides at Nanded, Taluka and District Nanded along with her husband and other family members of the husband. Applicant no.2 is a married sister-in-law, however, her husband is no more; she resides at Jalna. Learned counsel submits that although almost all the family members have been implicated in connection with the present case, it is the case of over implication.

7] Learned counsel for respondent no.2 – informant submits that the names of the applicants are mentioned in the

FIR with specific role attributed to each of them. Applicant nos.1 and 2 used to instigate the husband to ill-treat respondent no.2 on account of non-fulfillment of certain demands of cash amount of Rs.5 lacs. Further more, applicant no.2 resides with co-accused husband and mother-in-law since after the death of her husband at Jalna.

8] We have also heard learned APP for the respondent–State.

9] We have gone through the allegations made in the complaint, so also, in the charge sheet. It appears that though the names of the applicants are mentioned in the FIR, however, allegations as against them are general in nature. The allegations are absurd in nature. Both the applicants are married sister-in-laws and their age is 41 and 47 years respectively. It appears that almost all the family members have been implicated in connection with the present crime.

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 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 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 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, 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, the allegations are absurd in nature and do not make out any case. From reading of the complaint and even on perusal of the charge-sheet, even if the allegations are taken as proved, no case is made out against the applicants. There is no triable case against the applicants.

14] In view of the above and in terms of the ratio laid down in the above-cited cases, we proceed to pass the following order :

ORDER

- i] Criminal Application is allowed in terms of prayer clauses-A and A-1.

ii] Criminal Application is accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]

[V. K. JADHAV, J.]

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