

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1208 OF 2020

1. Sai S/o Ashok Kolage,
Age: 23 years, Occ: Teacher,
R/o : Nandurkhi Tq. Rahata,
Dist. Ahmednagar.
2. Ashok S/o Raghunath Kolage,
Age: 55 years, occ: Service,
R/o: Nandurkhi, Tq. Rahata,
Dist. Ahmednagar.
3. Nanda w/o Ashok Kolage,
Age : 49 years, Occ: Teacher,
R/o : Nandurkhi, Tq. Rahata,
Dist. Ahmednagar.
4. Anand S/o Ashok Kolage,
Age : 26 years, Occ: Teacher,
R/o : Nandurkhi, Tq. Rahata,
Dist. Ahmednagar.
5. Jay S/o Ashok Kolage,
Age : 18 years, Occ. Education,
R/o : Nandurkhi, Tq. Rahata,
Dist. Ahmednagar.

...APPLICANTS

VERSUS

1. The State of Maharashtra,
Through its Police Station,
Loni, Tq. Rahata, Dist. Ahmednagar.

2. Sau. Jayshri W/o Sai Kolage,
Age: 21 years, Occ: Household,
C/o Kailas s/o Baburao Kasbe,
R/o: Aher wasti, Near Shantinath
Mangal Karalaya Pravara Nagar
(Kharkhana), Tq. Rahata,
Dist. Ahmednagar.

... RESPONDENTS

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Mr. Kiran Nagarkar, Advocate for the applicants
Mr. S.P. Desmukh, APP for respondent No. 1 – State
Mr. Amol Gandhi, Advocate for respondent No. 2

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

DATE : 17th AUGUST, 2021

PER COURT :-

Learned counsel for the applicants, on instructions, seeks leave to withdraw the present application in respect of applicant Nos. 1 and 3 with liberty to file an application for discharge before the learned trial Court in pending case. Leave granted. The criminal application in respect of applicant No. 1- Sai S/o Ashok Kolage and applicant No. 3 Nanda W/o Ashok Kolage is hereby dismissed as withdrawn with liberty as prayed for.

2. With consent of the parties heard finally at admission stage.

3. Learned counsel for the applicants submit that the applicants are accused in connection with crime No. 122 of 2020 registered with Loni Police Station, District Ahmednagar for the offences punishable under Sections 498-A, 323, and 504 read with Section 34 of the Indian Penal Code. Initially, they have filed this application for quashing of the FIR and thereafter by amending the application the applicants seek quashing of the case bearing Regular Criminal Case No. 356 of 2020. At present case bearing Regular Criminal Case No. 356 of 2020 is pending before the learned Judicial Magistrate First Class, Rahata, District Ahmednagar.

4. Learned counsel for the applicants submits that though names of the applicants No. 2, 4 and 5 are mentioned in the First Information Report (for short "FIR"), however, no allegations have been made against them. There is no specific role attributed to each of them. Learned counsel submits that even nothing has been revealed during the course of investigation. The allegations have been made mainly against applicant No.1 – husband whose application came to be withdrawn and to some extent applicant

No. 3, who happens to be mother-in-law, whose application also came to be withdrawn.

5. Learned counsel for respondent No. 2 submits that after the marriage respondent No. 2 was treated well for a period of one and half months only and thereafter she was subjected to ill-treatment on account of non-fulfillment of the demand of Rs. 5,00,000/- for purchasing a Car. Learned counsel further submits that it is alleged in the complaint that all the applicants subjected respondent No. 2 with cruelty on account of non fulfillment of the demand. Respondent No. 2 has only one kidney that is also a reason that applicant No.1 co-accused was not cohabiting her.

6. We have also heard learned APP and learned counsel for respondent No. 2.

7. We have carefully gone through the charge-sheet. It appears that the allegations have been made mainly against co-accused husband and mother-in-law of respondent No. 2. They have also withdrawn their application seeking quashment of the charge-

sheet/case. So far as applicant No. 2 father-in-law, applicant Nos. 4 and 5 brother-in-laws are concerned, though their names are mentioned in the FIR, there are no allegations against them. Even nothing has been revealed during the course of investigation.

8. In the case of *Tararmani Parakh Versus State of M.P. and others* reported in *(2015) 11 SCC 260*, the Supreme Court in paragraph No. 10 has observed that, *“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”*

9. In the instant case, the allegations as against the applicants are absurd and continuation of proceedings against them would amount to abuse of process of law. There is no triable case

against them.

10. Thus, considering the ratio laid down by the Supreme Court and also the facts and circumstances of the present case, we allow this criminal application to the extent of applicant Nos. - (2) Ashok S/o Raghunath Kolage, (4) Anand W/o Ashok Kolage and (5) Jay S/o Ashok Kolage in terms of prayer clauses “B” and “F”.

10. Accordingly, the criminal application is disposed of.

(SHRIKANT D. KULKARNI)
JUDGE

(V. K. JADHAV)
JUDGE

mtk