

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

942 CRIMINAL APPLICATION NO.1457 OF 2020

1. Supriya w/o Dushant Shinde,
Age 36 years, Occu. Service,
R/o Near Swami Samarth Temple,
N-11-H-16/7, CIDCO, Aurangabad
 2. Vidya w/o Brijbhushan Gaikwad,
Aged 38 years, Occu. Service,
R/o Near Swami Samarth Temple,
N-11-E-53/4, CIDCO, Aurangabad
- ..Applicants

Versus

1. The State of Maharashtra,
Through the Police Station Officer,
Police Station, CIDCO, Aurangabad
 2. Manisha w/o Satish Bhale,
Aged 24 years, Occu. Household,
R/o Behind Vipul Apartment,
Old Baijipura, Aurangabad
- ..Respondents

Mr N.J. Patil, Advocate for applicants
Mr A.S. Shinde, A.P.P. for respondent no.1-State
Mr A.N. Sabnis, Advocate for respondent no.2

AND

943 CRIMINAL APPLICATION NO.1564 OF 2020

1. Kondiram s/o Ganpatrao Bhale,
Age 65 years, Occu. Retired,
R/o Near Swami Samarth Temple,
N-11, CIDCO, Aurangabad
 2. Sachin s/o Kondiram Bhale,
Aged 32 years, Occu. Service,
R/o Near Swami Samarth Temple,
N-11, CIDCO Aurangabad
now at Walsa-Khalsa, Taluka Bhokardan,
District Jalna
- ..Applicants

Versus

1. The State of Maharashtra,
Through the Police Station Officer,
Police Station, CIDCO, Aurangabad

2. Manisha w/o Satish Bhale,
Aged 24 years, Occu. Household,
R/o Behind Vipul Apartment,
Old Baijipura, Aurangabad

..Respondents

Mr N.J. Patil, Advocate for applicants

Mr G.O. Wattamwar, A.P.P. for respondent no.1-State

Mr A.N. Sabnis, Advocate for respondent no.2

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

DATE : 5th October 2021

PER COURT :

1. Leave to correct prayer clause (A) in both the applications.
2. The learned Counsel for the applicants, on instructions seeks leave to withdraw the application of applicant no.1 – Kondiram s/o Ganpatrao Bhale.
3. Leave granted. Criminal Application of applicant no.1 - Kondiram s/o Ganpatrao Bhale is dismissed as withdrawn.
4. The applicants are the accused in connection with Crime No.108/2020, registered on 29.2.2020 with Police Station, CIDCO, Aurangabad for the offences punishable under Sections 498-A, 323, 504, 506 read with Sec.34 of the Indian Penal Code and under Section 3 and 4 of the Dowry Prohibition Act.
5. At present, the charge-sheet has been submitted before the Court and the case is registered as R.C.C. No.1388/2020. The applicants are seeking quashing of the F.I.R. as well as criminal proceedings by filing the present applications.
6. The learned Counsel for the applicants submits that though the names of the applicants are mentioned in the F.I.R., however, the general allegations

have been made against them without quoting any specific incident. The learned Counsel submits that the allegations have been made mainly against co-accused husband, father-in-law and brother-in-law. The applicants are the married sisters-in-law, residing with their respective families. The learned Counsel submits that it is a case of over-implication.

7. The learned Counsel for respondent no.2/informant submits that names of the applicants are mentioned in the F.I.R. and specific allegations have been made against each of them. The learned Counsel for respondent no.2/informant has taken us through the statements of the witnesses recorded during the course of investigation. Learned Counsel submits that the allegations have been made against these applicants also. They have also subjected respondent no.2/informant with cruelty on account of non-fulfillment of the demand.

8. We have also heard the learned A.P.P. for the State.

9. We have carefully gone through the allegations made against the applicants in the complaint and so also the charge-sheet. It appears that respondent no.2 has married with co-accused/husband on 25.4.2019 and she was treated well for a period of one month. It has been alleged in the complaint that she was thereafter subjected to ill-treatment on account of the demand of the cash amount of Rs.5 lakhs from the parents by the co-accused/husband for securing the employment. There are general allegations against the present applicants to the effect that they also joined with co-accused/husband and subjected respondent no.2 to ill-treatment. It appears that the allegations are general in nature without quoting any specific incident. Even, during the course

of the investigation, nothing specific has been revealed against these applicants. The applicants in Criminal Application No.1457 of 2020 are married sisters-in-law whereas applicant no.2 in Criminal Application no.1564 of 2020 is the brother-in-law, who is serving as a teacher in Zilla Parishad School at Walsa-Khalsa, Taluka Bhokardan, District Jalna. He is also a married person resides at Bhokardan with his family. It appears to be a case of over-implication.

10. In a case of **Geeta Mehrotra and Ors. Vs. State of U.P. and Ors.**, reported in **MANU/SC/0895/2012**, the Supreme Court has made the following observations :

“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 a case of **Neelu Chopra and Or. Vs. Bharti**, reported in **2010 Cri.L.J. 448**, the Supreme Court has made the following observations :

“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. When we see the

complaint, the complaint 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.”

12. In a case of **Taramani Parakh Vs. State of Madhya Pradesh and Ors.**, reported in **(2015) 11 SCC 260**, the Supreme Court in paragraphs no.10, 14 and 15 has made following observations :

10. The law relating to quashing is well settled. If the allegations are absurd or do not make 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 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 the 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 498-A IPC 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. So far as present applicants are concerned, in our opinion, the allegations are absurd or do not make any case. Thus, the continuation of the proceedings would be the abuse of the process of law. It is clear case of over-implication. All the family members have been implicated in connection with the present case. Thus, considering the entire aspects of the case, we proceed to pass the following order :

ORDER

- (i) Criminal Application No.1457 of 2020 is allowed in terms of prayer clause (A).
- (ii) Criminal Application No.1564 of 2020 is allowed in terms of prayer clause (A) to the extent of applicant no.2 - Sachin s/o Kondiram Bhale.
- (iii) Both the Criminal Applications are accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)**(V.K. JADHAV, J.)**

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