

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

62 CRIMINAL APPLICATION NO.1367 OF 2021

RAJJAT DARASING RATHOD AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. Shaikh Tarek Mobin H.

APP for Respondent 1 : Mr.R D Sanap

Advocate for Respondent 2 : Mr. H. P. Randhir

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CORAM : V.K. JADHAV & SANDIPKUMAR C. MORE, JJ.

Dated : December 06, 2021

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PER COURT :-

1. We have heard the learned counsel for the applicants for some time.
2. Leave to amend the prayer clause to the extent of RCC number.
3. The learned counsel for the applicants, on instructions, seeks leave to withdraw the application of applicant no.1-Rajjat Darasing Rathod (Husband), 2-Darasing Madusing Rathod (father-in-law) and 3 - Baby Darasing Rathod (mother-in-law).
4. Leave granted. Application of applicant nos.1 to 3 are hereby dismissed as withdrawn.

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5. The applicants/original accused are seeking quashing of the First Information Report bearing crime no.27 of 2021 and subsequent charge-sheet vide RCC No.183 of 2021 for the offences punishable under sections 323, 498-A, 504, 506, 510 of the Indian Penal Code.

6. The learned counsel for the applicants submits that though names of the applicants are mentioned in the FIR, however, allegations have been made mainly against the husband, father-in-law and mother-in-law, whose application seeking quashing of the FIR and proceedings came to be withdrawn today. Learned counsel submits that the allegations as against the applicants are concerned, those are general in nature. So far as the incident dated 25.3.2020 is concerned, it has merely alleged in the complaint that the present applicants alongwith other co-accused persons went to the parents house of the informant and further took son of the co-accused Rajjat Rathod alongwith them by making debate with the parents of respondent no.2.

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7. Learned counsel for respondent no.2 submits that names of the applicants are mentioned in the FIR with the specific role attributed to each of them. Respondent no.2 has quoted specific incident dated 25.3.2020, wherein involvement of the present applicants in the crime is apparent. There is a triable case against the applicants. There is no substance in this application. Application is liable to be dismissed.

8. We have heard the learned APP for the respondent State no.1.

9. We have gone through the contents of the complaint so also perused the charge-sheet, carefully. Though we find names of the applicants are mentioned in the FIR, however, role is particularly limited to the extent of incident allegedly occurred on 25.3.2020. However, on the basis of the said incident, charge under section 498-A hardly attracts. Both the applicants are married brother-in-law. It is a case of over implication. Even if the allegations made as against the applicants are accepted as it is, no case is made out.

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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 “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 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

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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”.

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 make out any case or if it can be held that there is abuse of process of law, the

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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.

11. to 13.

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 v. Bharti, (2009) 10 SCC 184**, 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 Prasad Khaitan v. Ram Gopal Poddar, (2010) 10 SCC 673** 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 to

be absurd. In **Geeta Mehrotra v. State of U.P. (2012) 10 SCC 741**, 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. It is well settled that, if the allegations are general absurd in nature and no case is made out, criminal the proceedings are liable to be quashed. In the instant case, even if the allegations as made against the applicants herein are held to be proved, no case is made out. In view of the same, continuation of the proceedings on the basis of such allegations against the applicants will be abuse of the court process.

14. In view of the above and in terms of the ratio laid down by the Supreme Court, we proceed to pass the following order.

ORDER

1. Criminal Application is hereby allowed in terms of prayer Clause “A” as against the applicants.

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2. Criminal Application accordingly disposed off.

(SANDIPKUMAR C. MORE, J.) (V.K. JADHAV, J.)

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