

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

CRIMINAL APPLICATION NO. 1637 OF 2020

Bhushan Vijay Kumar Jadhav
and others

... Applicants

Versus

The State of Maharashtra
and another

... Respondents

....

Mr. P.P. Uttarwar, Advocate for the Applicants
Ms. P.V. Diggikar, A.P.P. for Respondent No.1 / State
Mr. D.R. Adhav, Advocate for Respondent No.2

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

DATE : 02nd AUGUST, 2021

PER COURT:-

1. With consent of the parties heard finally, at admission stage.
2. The applicants are the accused in connection with crime No.27/2019 registered with Loni Police Station, District Ahmednagar on 24.01.2019 for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code and consequential charge-sheet no.26/2019, which is now registered as RCC no.160/2020 pending before the Judicial Magistrate, First Class, Rahata, District Ahmednagar.

2. So far as applicant nos. 2 and 3 are concerned, they are suffering from cancer and the medical papers to that effect are annexed to the application. Learned counsel submits that though the names of the applicants are mentioned in the F.I.R., however, general allegations have been made against applicant nos.2 and 3.

3. Learned counsel appearing for respondent no.2 submits that the first informant was well treated for a period of one month after the marriage, thereafter, she was subjected to ill-treatment for various reasons. She was subjected to ill-treatment and beating for non-fulfillment of demand of Rs.20,00,000/- for repayment of the loan obtained for purchasing the flat at Pune. Learned counsel submits that the specific allegations have been made against all the applicants. Respondent no.2-original complainant has quoted the specific incidents against them.

4. We have also heard learned APP for the Respondent-State.

5. In case of *Taramani Parakh Vs. State of Madhya Pradesh and others* reported in *(2015) 11 SCC 260*, in para 10, the Hon'ble Supreme Court 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.”

6. In para 14 and 15 of the said case, the Hon’ble Supreme Court has observed that, from a reading of the complaint, it cannot be held that even if the allegations are taken as proved no case is made out. It cannot be held that there is no triable case against the accused.

7. In the instant case, after going through the contents of the charge-sheet, particularly the allegations made by the complainant, we find that there are allegations against all the applicants by quoting the specific incident. Respondent no.2-informant was subjected to ill-treatment and beating on account of non- fulfillment of demand of Rs.20,00,000/- for repayment of the loan availed for purchasing the flat at Pune. Thus, applying the principles as laid down in the aforesaid case, it cannot be said that there is no triable case against the accused.

8. So far as the grounds of health issues as raised by the applicants, we have carefully gone through the documents annexed to that effect. It appears from the documents placed on record that applicant no.2 was suffering from breast cancer way back in the year

2014 and even the learned counsel for the applicants is not in a position to inform us as to what is the present status of the said ailment. Though a certificate about the tongue cancer of applicant no.3 placed on record, however, it was issued way back in the year 2015 and the learned counsel is unable to inform us the present status of the health of applicant no.3.

9. In view of the same, we find no case for the applicants. Hence the following order:

ORDER

(i) Criminal application is hereby dismissed.

[SHRIKANT D. KULKARNI]
JUDGE

[V. K. JADHAV]
JUDGE

S.P Rane