

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

48 CRIMINAL APPLICATION NO.1642 OF 2020

KISHOR S/O RAMDAS KURDE and OTHERS.
VERSUS
THE STATE OF MAHARASHTRA and ANR.

...
Advocate for Applicants : Mr. V. U. Jadhav
APP for Respondent no.1-State : Mr. M., M. Nerlikar
Advocate for Respondent no.2 : Mr. T. M. Venjane
...

**CORAM : V. K. JADHAV AND
SANDIPKUMAR C. MORE, JJ.
DATED : 22nd NOVEMBER, 2021.**

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PER COURT :

1. We have heard learned counsel for the applicants for some time. Learned counsel for the applicants, on instructions, seeks leave to withdraw the application of applicants. 1 to 3. Leave granted. Application of applicant no. 1 Kishor (husband), applicant no.2 Ramdas (father-in-law) and applicant no.3 Vaijanta (mother-in-law) is hereby dismissed as withdrawn.

2. Learned counsel submits that the applicants are accused in connection with Crime No. 541 of 2020, registered with Renapur Police Station, District Latur for the offence punishable under Sections, 498-A, 323, 504 and 506 of IPC. The applicants are

seeking quashing of F.I.R.. Learned counsel submits that during the pendency of this criminal application, charge sheet has been filed. The applicants, have therefore carried out the amendment in the prayer clause seeking quashing of the criminal proceedings also.

3. Learned counsel for the applicants submits that though the names of applicants are mentioned in the FIR, the allegations as against them are general in nature. Applicant no.4 Sulbha is the married sister-in-law and she got married way back in the year 2008. Applicant no.5 is the husband of applicant no.4 Sulbha. Learned counsel submits that applicant no.6 Sarika is also married sister-in-law, who got married in the year, 2012. There are vague and general allegations as against them. The allegations have been made mainly against co-accused husband, father-in-law and mother-in-law whose application seeking quashing of the proceedings came to be withdrawn.

4. Learned counsel for respondent no.2 submits that the names of the applicants are mentioned in the FIR with specific role attributed to each of them. There are specific allegations against them that they have instigated co-accused persons and also

subjected respondent no.2 to cruelty as defined under Section 498-A of IPC.

5. We have also heard learned APP for respondent no.1-State.

6. We have carefully gone through the allegations and the complaint so also the charge sheet. Though we find the names of the applicants are mentioned in the FIR, however, the allegations as against them are absurd in nature. The applicants no. 4 and 6 are the sister-in-laws respectively, and they got married way back in the year, 2008 and 2012 respectively. Applicant no.5 is husband of applicant no.4. The allegations against them are general in nature without quoting any specific instance. It is a case of over implication.

7. 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.”

8. 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.”

9. 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 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 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, 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 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."

10. It is well settled that if the allegations are absurd and do not make out any case the proceeding can be quashed. So far as the allegations made as against the applicants are taken as proved, no case is made out against them. 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. In the instant case, the allegations have been made against co-accused husband and also against father-in-law and mother-in-law, whose application seeking quashing of F.I.R. and criminal proceedings came to be withdrawn.

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

O R D E R

- I) Criminal application is hereby allowed in terms of prayer clause "B" and "E" to the extent of applicant Nos. 4 to 6.
- II) Application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)

vsm/-