

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

51 CRIMINAL APPLICATION NO. 1625 OF 2021

1. Vipin Chandrakant Solankhi
 2. Chandrakant Rajaram Solankhi
 3. Shobhabai Chandrakant Solankhi
 4. Simran Chandrakant Solankhi
 5. Sayjabai Budha Chavan
 6. Vijay Budha Chavan
 7. Minakshi Vijay Chavan
 8. Shantaram Sukhalal Sonwane
- @ Dhondu Bhagat ... Applicants

versus

The State of Maharashtra and another ... Respondents

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Advocate for Applicants : Mr. Choudhari N. L.
APP for Respondent No.1-State : Mr. R. V. Dasalkar
Advocate for Respondent No.2 : Mr. Anudeep D. Sonar

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**CORAM : V. K. JADHAV AND
SANDIPKUMAR. C. MORE, JJ.
DATED : 25th OCTOBER, 2021**

PER COURT:-

1. Learned counsel for the applicants, on instructions, seeks leave to withdraw the application of applicant no.2 Chandrakant Rajaram Solankhi. Learned counsel submits that the application of applicant nos. 1 and 3 is already withdrawn. Leave granted. The application of applicant no.2 Chandrakant Rajaram Solankhi is dismissed as withdrawn.

2. Applicant nos. 4 to 8 are seeking quashing of the FIR in crime no. 396 of 2021 registered with Dhule Taluka Police Station, Dhule, District Dhule for the offences punishable under Sections 498-A, 504, 506 r/w 34 of IPC.

3. Learned counsel for the applicants submits that though names of applicant nos. 4 to 8 are mentioned in the FIR, however the allegations as against them are general in nature and no specific incidents have been quoted against them. Learned counsel submits that it is a case of over-implication and almost all the family members, including the distant relatives, came to be implicated in connection with the present crime. Learned counsel submits that applicant no.4 is the sister-in-law of respondent no.2 and she is taking education. Application no.5 is the grandmother-in-law of respondent no.2. Applicant no.6 is the maternal uncle of co-accused Shobhabai and applicant no.7 is the maternal aunt of co-accused Shobhabai.

4. Learned counsel for respondent no.2 submits that names of all the applicants are mentioned in the FIR with a specific role attributed to each of them. It has been specifically alleged in the

complaint that they have subjected respondent no.2-informant to cruelty and also instigated the other co-accused persons for subjecting her to harassment for various reasons.

5. We have also heard learned APP for the respondent-State.

6. We have carefully gone through the allegations made in the complaint so also the police papers. Though we find names of the applicants mentioned in the FIR, however the allegations as against them are general in nature. Applicant nos. 5 to 8 are related to accused no.3 Shobhabai. Applicant no.4 is the sister-in-law of respondent no.2 and at present she is taking education. It is a classic example of over-implication and not only all the family members have been implicated in connection with the present crime, but the distant relatives are also not spared.

7. In the case of *Gita 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.”

8. 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 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”.

9. In the case of ***Taramani Parakh v. 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 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.”

10. In the instant case, the allegations as against applicant nos. 4 to 8 are general in nature. From a reading of the complaint and even if the allegations as against applicant nos. 4 to 8 are taken as proved, no case is made out against them. It is well settled that if the allegations are absurd and do not make out any case, the proceedings can be quashed. In the instant case, considering the allegations made in the complaint, it appears that no triable case is made out against the applicants-accused. Thus, considering the entire aspect of the case and in terms of the ratio laid down by the Hon'ble Supreme Court in the above cited cases, we are inclined to quash the FIR as against applicant nos. 4 to 8. Hence, we proceed to pass the following order.

ORDER

I. The criminal application is allowed in terms of prayer clause “B” to the extent of applicant no. 4. Simran Chandrakant Solankhi, applicant no. 5. Sayjabai Budha Chavan, applicant no. 6. Vijay Budha Chavan, applicant no. 7. Minakshi Vijay Chavan and applicant no. 8. Shantaram Sukhalal Sonwane @ Dhondu Bhagat.

II. The criminal application is accordingly disposed off.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)