

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

50 CRIMINAL APPLICATION NO.1865 OF 2021

HARSHAD SHIVAJI VANJARE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER
...

Advocate for Applicants : Mr Mahendra P Gandle
APP for Respondent No.1-State : Mr K.S. Patil
Advocate for Respondent No. 2 : Mr Amar V. Lavte

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

DATE : 11th OCTOBER, 2021

PER COURT :

1. We have heard the learned counsel for the applicants for some time.
2. The learned counsel for the applicants, on instructions, seeks leave to withdraw the application of applicant No. 1 Harshad s/o Shivaji Vanjare, applicant No. 2 Sarla w/o Shivaji Vanjare and applicant No. 3 Shivaji s/o Yadavrao Vanjare.
3. Leave granted.
4. The application of applicant Nos. 1 to 3 is hereby dismissed as withdrawn.
5. The applicants before us are the accused persons in connection with Crime No. 283/2021 registered with Police Station, Vajirabad, Nanded, Dist. Nanded under section 498-A, 323, 504 read with

34 of I.P.C. The applicants are seeking quashing of the proceedings by filing the present criminal application, so also, for quashing of the F.I.R.

6. The learned counsel for the applicants submits that though the names of the applicants are mentioned in the F.I.R., the allegations as against them are general in nature without attributing any specific role to each of them.

7. The learned counsel submits that the allegations have been made against the husband, father-in-law and mother-in-law whose applications seeking of quashing of the F.I.R. came to be withdrawn today. The learned counsel submits that applicant No. 4 is the married sister-in-law and the applicant No. 5 is her husband. Applicant No. 6 is also the married sister-in-law. Applicant No. 7 is the cousin of applicant No. 5 and applicant No. 8 is the paternal aunt of co-accused husband and applicant No. 9 is the husband of applicant No. 8.

8. The learned counsel submits that it is a case of over-implication and almost, all the family members have been implicated in connection with the present crime.

9. The learned counsel for respondent No.2/informant submits that the names of the applicants are mentioned in the F.I.R. with the specific role attributed to each of them. These applicants used to instigate the co-accused persons and on the basis of their instigation, respondent No.2/informant was subjected to cruelty by the co-accused persons.

10. We have also heard the learned A.P.P. for the respondent/State.

11. We have carefully gone through allegations made in the complaint. Though we find the names of the applicants are mentioned in the F.I.R. however, the omnibus allegations have been made against them without attributing any specific role.

12. Respondent No.2/informant was treated well for the period of six months after her marriage performed on 30.06.2019. As per the allegations made in the complaint, thereafter she was subjected to ill-treatment from the month of January, 2020 by her husband, mother-in-law and father-in-law for various reasons and also on account of non-fulfillment of demand of Rs.1,00,000/-.

13. So far as the present applicants are concerned, the omnibus allegations have been made against them. It has been merely alleged in the complaint that they used to instigate the co-accused persons. It appears that the allegations have been made mainly against the co-accused husband, father-in-law and mother-in-law, whose applications seeking quashing of the F.I.R. came to be withdrawn today.

14. 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.”

15. 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”.

16. In the case of ***Taramani Parakh v. State of Madhya Pradesh and others***, reported in ***(2015) 11 SCC 260***, in para Nos. 10, 14 and 15, the Hon'ble 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.”

17. In the instant case, the allegations are absurd as against the present applicants and do not make out any case as against them. There is an abuse of the process of law if the proceedings remained continued. There is no triable case as against them. There are omnibus allegations against them about the instigation without quoting any specific incident. From reading the entire complaint, it cannot be held that even if the allegations are taken as proved, the case is made out.

18. Thus, considering the entire aspects of the case and in view of the ratio laid down in the above cited case, we proceed to pass the following order :-

ORDER

- (I) The criminal application is allowed in terms of prayer clause (B).
- (II) The criminal application is accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]

[V.K. JADHAV, J.]

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