

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

927 CRIMINAL APPLICATION NO. 2098 OF 2020

GULAB S/O ANNA PIMPLE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

.....

Advocate for Applicants : Mr. Dnyaneshwar A. Bide
APP for Respondent No.1 : Mr. K. S. Patil
Advocate for Respondent No.2 : Mr. N. V. Borse (appointed)

.....

**CORAM : V. K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.
DATED : 28th SEPTEMBER, 2021**

PER COURT:-

1. We have heard learned counsel for the applicants for some time.
2. Learned counsel for the applicants, on instructions, seeks leave to withdraw the application of applicant no.1 Gulab s/o Anna Pimple, applicant no.2 Suman w/o Gulab Pimple and applicant no.3 Arun s/o Gulab Pimple.
3. Leave granted. The application of applicant nos. 1 to 3 is hereby dismissed as withdrawn.

4. Applicant nos. 4 to 6 are the accused persons in connection with crime no. 283 of 2020 registered with Topkhana Police Station, Ahmednagar for the offence punishable under Sections 498-A, 323, 504, 506 r/w 34 of IPC.

5. Learned counsel for the applicants submits that though names of applicant nos. 4 to 6 are mentioned in the FIR, however, no role has been attributed to them. Learned counsel submits that the allegations have been made against the husband, the mother-in-law and the father-in-law, whose application seeking quashing of the criminal proceedings came to be withdrawn today. Learned counsel submits that applicant no.5 Jayshree is the sister-in-law of respondent no.2 and she got married with applicant no.4 Sanjay long back. Both of them are staying at Takli Kazi, Taluka Nagar, District Ahmednagar. There are omnibus allegations against applicant nos. 4 to 6.

6. Learned counsel for respondent no.2 submits that respondent no.2 has made allegations against applicant no.6 Adinath Shankar Kale. It is also alleged in the complaint that applicant nos. 4 and 5

have also subjected her to ill-treatment on account of non-fulfillment of the demand of cash amount for purchasing a four-wheeler.

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

8. We have carefully perused the police papers, particularly the complaint. Though we find names of the applicants mentioned in the FIR, however, the allegations are general in nature without attributing any specific role. So far as applicant nos. 4 and 5 are concerned, the allegations are vague. Even though, on one occasion, it has been alleged that applicant no.6 was present in her matrimonial house, however, except his presence no specific allegations have been made against him.

9. 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.”

10. 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”.

11. In the case of ***Taramani Parakh v. State of Madhya Pradesh and others***, reported in (2015) 11 SCC 260, in para 10 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.”

12. In the instant case, the allegations as against applicant nos. 4 to 6 are absurd and it would be an abuse of process of law if the FIR is not quashed against them. From the reading of the complaint and even after going through the police papers, even if the

allegations are taken as proved, no case is made out against applicant nos. 4 to 6.

13. In view of the same and in term of the ratio laid down by the Hon'ble Supreme Court in the aforesaid cases, we are inclined to quash the proceedings as against applicant nos. 4 to 6. Hence, the following order:

ORDER

I. The criminal application is allowed in terms of prayer clause "B" to the extent of applicant no. 4 Sanjay s/o Madhav Dhage-original accused no.6, applicant no.5 Jayshree w/o Sanjay Dhage-original accused no. 5 and applicant no.6 Adinath Shankar Kale-original accused no. 3.

II. The criminal application is accordingly disposed off.

III. We quantify the fees for the appointed counsel at Rs.2,000/- (Rupees Two Thousand only) to be paid by the High Court Legal Services Sub-committee, Aurangabad.

(SHRIKANT D. KULKARNI, J.)

(V. K. JADHAV, J.)