

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

954 CRIMINAL WRIT PETITION NO.1514 OF 2020

RATAN S/O KHANDU BHAPKAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Petitioners : Mr. K. N. Shermale
APP for Respondent No.1 : Mr. R. V. Dasalkar
Advocate for Respondent No.2 : Mr. R. R. Karpe

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

PER COURT:-

1. We have heard learned counsel for the petitioners for some time. Learned counsel for the petitioners, on instructions, seeks leave to withdraw the petition of petitioner no.1 Ratan s/o Khandu Bhapkar and petitioner no.2 Kantabai w/o Ratan Bhapkar.
2. Leave granted. The petition of petitioner nos. 1 and 2 is dismissed as withdrawn.
3. Petitioner nos. 3 to 5 are the accused in connection with crime no. 299 of 2019 registered with Ahmednagar Taluka Police

Station for the offences punishable under Sections 498-A, 323, 504, 506 r/w 34 of IPC. It appears that the investigation is completed and charge-sheet has been submitted in the court which is now registered as R.C.C. No. 632 of 2019. By way of this petition, petitioner nos. 3 to 5 are seeking quashing of the FIR so also quashing of the criminal proceedings.

4. Learned counsel for the petitioners submits that there are vague allegations as against the present petitioners. Petitioner no.3 is the brother-in-law and petitioner no.4 is the wife of petitioner no.3. petitioner no.5 is also brother-in-law. Petitioner no.3 resides separately in Ahmednagar itself and he is doing a private job. petitioner no.5 is serving as a Police Peon and posted at Satara Parisar, Aurangabad. Learned counsel submits that the allegations have been made mainly against co-accused husband, the mother-in-law and the father-in-law. It has been alleged in the complaint itself that since 20.10.2015 the informant started residing with her husband separately from the said co-accused persons and she was subjected to cruelty by co-accused husband on account of non-fulfillment of demand of certain cash amount. It is further alleged that in order to avoid the said ill-treatment, the father of

respondent no.2 has paid an amount of Rs.2,00,000/- in the month of June-July 2016 to co-accused husband. Learned counsel submits that the allegations as against the present petitioners are vague without quoting any specific incident.

5. Learned counsel for respondent no.2 submits that marriage of respondent no.2-informant with co-accused Tatyabhau was performed on 22.02.2015 and for near about 10 months respondent no.2-informant has cohabited with co-accused husband in the matrimonial home along with other co-accused persons. There are allegations that respondent no.2-informant was subjected to ill-treatment on account of non-fulfillment of demand of certain amount for domestic expenses and also for purchasing a motorcycle. Learned counsel submits that there is evidence against the petitioners. The petition is thus liable to be dismissed.

6. We have also heard learned APP.

7 We have carefully gone through the copy of the charge-sheet, particularly the allegations in the complaint. It appears from the allegations made in the complaint that marriage was performed on

22.02.2015 and after marriage, respondent no.2-informant was treated well for near about three and half month. It further appears that there are vague allegations that thereafter there was a demand to meet the domestic expenses and also for purchasing a motorcycle. It further appears from the allegations in the complaint that those allegations are absurd and vague in nature. Those allegations are merely about making of the demand. There is no further reference as to what happened of that demand and when it was actually made after respondent no.2-informant was treated well for a period of three and half month. Thereafter the allegations have been made against co-accused husband to the effect that he started demanding an amount of Rs.5,00,000/- from the parents of respondent no.2-informant to meet the expenses of the criminal proceedings initiated against him. It has been further alleged in the complaint itself that since 20.10.2015, the informant along with her husband started residing separately. Even after residing separately, as per the allegations in the complaint, co-accused husband started giving ill-treatment to the respondent-informant for fulfillment of demand of certain amount and in order to meet the said demand, the father of respondent no.2 has paid cash amount of Rs.2,00,000/- to co-accused husband. There are no

further allegations as against the present petitioners after respondent no.2-informant started residing separately along with her husband.

8. 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.”

9. 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”.

10. 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.”

11. In the instant case, even if the allegations are taken as proved, no case is made out against petitioner nos. 3 to 5. The allegations are absurd in nature and do not make out any case. There would be abuse of process of the court if the criminal proceedings remain continued as against these petitioners. It is a classic example of over-implication and almost all the family members have been implicated in connection with the present crime.

12. In view of the same and in terms of the ratio laid down by the Supreme Court in the aforesaid cases, we are inclined to quash the criminal proceedings as against the present petitioner nos. 3 to 5. Hence, the following order :

ORDER

I. The criminal writ petition is allowed in terms of prayer clauses “B” and “C” to the extent of petitioner no.3 Dattatray s/o Ratan Bhapkar- original accused no. 4, petitioner no. 4 Pratiksha w/o Dattatray Bhapkar- original accused no. 5 and petitioner no.5 Kiran @ Kacharu s/o Ratan Bhapkar- original accused no. 6.

II. The criminal writ petition is accordingly disposed off.

(SHRIKANT D. KULKARNI, J.)

(V. K. JADHAV, J.)