

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

938 CRIMINAL APPLICATION NO.2134 OF 2020

1. Jalindar s/o Subhash Jagtap,
Age 28 years, Occu. Agri.,
R/o Sarla Govardhan, Shrirampur,
Taluka Shrirampur,
District Ahmednagar
2. Somnath s/o Subhash Jagtap,
Age 38 years, Occu. Service,
R/o Sarla Govardhan, Shrirampur,
Taluka Shrirampur,
District Ahmednagar,
at present r/o Flat No.202,
Balaji Towers, Keshavapuri Colony,
Central Grammar High School Lane,
Hastipuram North, Hyderabad,
Telangana State 500 079
3. Pushpa w/o Nanasaheb Jagtap,
Age 52 years, Occu. Household,
R/o Sarla Govardhan, Shrirampur,
Taluka Shrirampur,
District Ahmednagar

..Applicants

Versus

1. The State of Maharashtra,
Through Police Inspector,
Shrirampur Taluka Police Station,
Taluka Karjat, Dist. Ahmednagar
2. Kajal w/o Jalindar Jagtap,
Age 25 years, Occu. Household,
R/o Sarla Govardhan, Shrirampur,
District Ahmednagar,
at present r/o Behind Nimbalkar
Hospital, Gajanan Colony,
Navanagapur, Taluka and
District Ahmednagar

..Respondents

Mr R.R. Karpe, Advocate, for applicants
Mr G.O. Wattamwar, A.P.P. for respondent no.1-State
Mr Satej S. Jadhav, Advocate for respondent no.2

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

DATE : 13th October 2021

PER COURT :

1. By consent, heard finally at admission stage.
2. The learned Counsel for the applicants, on instructions, seeks leave to withdraw the application of applicant no.1 – Jalindar s/o Subhash Jagtap.
3. Leave granted. Application of applicant no.1 - Jalindar s/o Subhash Jagtap is hereby dismissed as withdrawn.
4. The applicants are the accused persons in connection with Crime No.34/2020, registered with Shrirampur Police Station, for the offences punishable under Sections 498-A, 323, 504, 506 of the Indian Penal Code. At present, the investigation is completed and the charge-sheet has been submitted.
5. The case bearing R.C.C. No.644/2020 is pending before the Judicial Magistrate, First Class, Shrirampur. The applicants are seeking quashing of the F.I.R., so also the criminal proceedings by filing present criminal application.
6. The learned Counsel for the applicants submits that the allegations have been made mainly against co-accused/husband whose application seeking quashing of the criminal proceedings came to be withdrawn. The learned Counsel submits that names of the applicants are mentioned in the F.I.R., however, the allegations are general in nature without quoting any specific

incident. The learned Counsel submits that applicant no.2 - Somnath is serving as Engineer and since 1998 residing at Hyderabad also in State of Karnataka as per the demand of his job profile. The learned Counsel submits that applicant no.3 - Pushpa is the cousin mother-in-law, who resides separately with her family members. It is the case of over-implication and almost all the family members have been implicated in the present crime. The learned Counsel submits that nothing specific has been revealed against the applicants during the course of investigation.

7. Learned Counsel for respondent no.2/informant submits that the names of the applicants are mentioned in the F.I.R. with a specific role attributed to them. There are specific allegations that they used to keep the informant on starvation and so also used to beat her on account of non-fulfillment of certain demand. The learned Counsel submits that applicant no.3 - Pushpa resides in the same village and she used to come to the matrimonial home of respondent no.2/informant. The applicants used to instigate the co-accused/husband of respondent no.2 and as a result thereof, the co-accused/husband not only subjected respondent no.2 to cruelty, but also started suspecting about her character.

8. We have carefully gone through the allegations made in the complaint, so also the charge-sheet. Though we find the names of the applicants mentioned in the F.I.R., however, omnibus allegations have been made against them. It further appears that the allegations against them are general in nature without quoting any specific incident. It also appears that the allegations have been made mainly against co-accused/husband whose application seeking quashing of the criminal proceedings came to be withdrawn. Even, nothing has

been revealed during the investigation as against the applicants. Thus, the allegations made against them are absurd in nature. Applicant no.2 - Somnath resides at different place, even in a different State right from the year 1998. It is merely alleged in the complaint that applicant no.2 used to keep respondent no.2 on starvation and used to beat her, however, no specific incident has been quoted. So far as applicant no.3 is concerned, she is cousin mother-in-law, admittedly residing with her own family members. The allegations as against her are also general in nature without quoting any specific incident.

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, 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.”

12. It is well settled that the allegations are absurd and do not make out any case, the proceedings can be quashed. 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. Thus, from reading of the complaint and even if the allegations are taken as proved, no case is made out against the applicants. There is no triable case against

them. Thus, considering the entire aspects of the case and the ratio laid down by the Honourable Supreme Court in the aforesaid cases, we are inclined to quash the F.I.R. and criminal proceedings as against applicants no.2 and 3.

Hence, we proceed to pass the following order :

ORDER

(I) Criminal Application is allowed in terms of prayer clauses (B) and (B-1) to the extent of applicant no.2 - Somnath s/o Subhash Jagtap and applicant no.3 - Pushpa w/o Nanasaheb Jagtap.

(II) Criminal Application is accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)

(V.K. JADHAV, J.)

vvr