

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

CRIMINAL APPLICATION NO. 2373 OF 2020

1. Preshit @ Pankaj Baliram Waghmare
Age : 33 Years, Occu: Education
R/o Shital Niwas, Kakde Plot
Shahunagar, Osmanabad,
Tq. & Dist. Osmanabad.
 2. Baliram S/o Dashrath Waghmare
Age : 66 Years, Occu: Retired
R/o Shital Niwas, Kakde Plot
Shahunagar, Osmanabad,
Tq. & Dist. Osmanabad.
 3. Kaushalya W/o Baliram Waghmare
Age : 56 Years, Occu: Household
R/o Shital Niwas, Kakde Plot
Shahunagar, Osmanabad,
Tq. & Dist. Osmanabad.
 4. Shambhu @ Prashant S/o Baliram Waghmare
(Deleted as died)
 5. Prajatka W/o Sharad Gaikwad
Age : 35 Years, Occu: Household
R/o Kasliwal Marvel West, Building-I
Flat No.304, Beed bypass road,
Aurangabad.
 6. Uma W/o Shriniwas Waghmare
Age : 42 years, Occu: Household
R/o C-5,CIDCO, New Panvel
District Raigad
 7. Shankar S/o Dashrath Waghmare
Age : 57 years, Occu: Service
R/o Sunita Niwas, Moha Road,
Kalpana Nagar, Kalamb, Tq. Kalamb,
Dist. Osmanabad.
- ... Applicants

Versus

1. The State of Maharashtra

2. Jyoti W/o Preshit Waghmare,
Age: 30 years, Occu: Household
R/o C/o Ana1nd Shinde
Limba Rui Devi, Pimpalner,
Beed,Tq. & Dist. Beed.

... Respondents

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Mr. H.V. Tungar, Advocate for the Applicants

Mr. Sachin J. Salgare, A.P.P. for Respondent No.1 / State

Ms. S.R. Shirsath, Advocate for Respondent No.2

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

DATE : 12th AUGUST, 2021

PER COURT:-

1. With consent of the parties heard finally, at admission stage.
2. The applicants are the accused in connection with F.I.R. / crime no. 3 of 2020 registered with Pimpalner Police Station, District Beed for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code. At present, charge-sheet has been submitted and the case is registered as RCC No.431 of 2020.

3. Learned counsel for the applicants, on instructions, seeks leave to withdraw the application to the extent of applicant no. 1 – Preshit @ Pankaj S/o Baliram Waghmare, applicant no. 2 – Baliram S/o Dashrath Waghmare and applicant no.3 – Kaushalya W/o Baliram Waghmare.

4. Leave granted. Criminal application to the extent of applicant nos.1, 2 and 3 is dismissed as withdrawn.

5. Leave to delete the name of applicant no.4 as he died on 12.02.2020.

6. So far as applicant nos. 5, 6 and 7 are concerned, learned counsel submits that though their names are mentioned in the F.I.R., however, vague allegations have been made against them. Learned counsel submits that it is a clear case of over-implication. Applicant no.5 is the married sister of co-accused husband. Applicant no.6 is the real sister of the mother-in-law of respondent no.2 and applicant no.7 is the cousin father-in-law of respondent no.2. Learned counsel has pointed out that applicant no.5 resides at Aurangabad along with her husband and other family members. Applicant no.6 resides at New Panvel, District Raigad since last many years. Applicant no.7 resides in Kalamb, Taluka Kalamb, District Osmanabad. Learned counsel submits that admittedly they are not residing with the

husband, the father-in-law and the mother-in-law of respondent no.2. Learned counsel submits that as per the allegations made in the complaint itself, marriage of applicant no.1 and respondent no.2 was performed on 28.06.2019 and she was allegedly driven out from the house on 05.07.2019. Learned counsel submits that the total span of her cohabitation is not more than 7 days and she was treated well for first four days. He submits that during the said period of 7 days, respondent no.2 allegedly travelled and went to Mumbai to meet applicant no.6. There are no details as to when respondent no.2 alongwith her husband went to Mumbai to meet applicant no.6. Learned counsel submits that the allegations have been made only for implicating applicant no.6 as an accused in connection with crime. Learned counsel submits that there are allegations that applicant no.6 has made a statement that she would have selected a beautiful wife instead of respondent no.2, however, except that there are no further allegations about harassment and ill treatment being caused to respondent no.2 by applicant no.6 on that count. It is not clear as to what date and time applicant nos. 5 and 7 had been to her matrimonial home during the said period of 7 days and harassed respondent no.2. Learned counsel submits that the F.I.R. to the extent of applicant nos. 5, 6 and 7, who are original accused nos.5, 6 and 7 respectively, is liable to be quashed.

7. Learned counsel for respondent no.2 submits that though the span of cohabitation is very short, however, respondent no.2 was subjected to ill treatment on account of non-fulfillment of the demand of Rs.20,00,000/- for securing a job to applicant no.1. Learned counsel submits that applicant nos. 5, 6 and 7 used to instigate the husband of respondent no.2, and thus, respondent no.2 was subjected to ill treatment by her husband – applicant no.1, whose application came to be withdrawn today. Learned counsel submits that the allegations made in the complaint are required to be accepted as it is. So far as exercise of the power under Section 482 is concerned, truthfulness of those allegations is not required to be verified.

8. We have also heard the learned APP for respondent no.1 / State.

9. It is pertinent to note that as per the allegations made in the complaint itself, respondent no.2 has cohabited for total period of 7 days after marriage. So far as the applicants before us are concerned, the allegations are vague without mentioning details. It is not clear that during the said short span of 7 days, as to when respondent no.2 along with her husband had travelled and went to Mumbai to meet applicant no.6. There are vague allegations against applicant nos. 5

and 7 about instigation without quoting any specific incident. Applicant no.5 is residing at Aurangabad along with her husband and small children. There are no details in the complaint as to when applicant no.5 had been to Osmanabad during the said short span of 7 days of cohabitation of respondent no.2 in her matrimonial home.

10. In case of ***Geeta Mehrotra & Anr. Vs. State of U.P*** reported in ***AIR 2013 SC 181***, the Hon'ble Supreme Court has observed that, "the 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."

11. In case of ***Neelu Chopra and anr. Vs. Bharti*** reported in ***2010 Cri.L.J. 448***, the Hon'ble Supreme Court has observed that, "in order to lodge a proper compliant, 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.” In the said case, the complaint is sadly vague and it does not show as to which accused has committed what offence and what is the exact role played by appellants therein in the commission of offence.

12. In case of *Taramani Parakh Vs. State of Madhya Pradesh and others* reported in (2015) 11 SCC 260, the Hon’ble Supreme Court has observed that, “where the factual foundation for an offence has been laid down, the courts should be reluctant and should not hasten to quash the proceedings even on the premise that one or two ingredients have not been stated or do not appear to be satisfied if there is substantial compliance with the requirements of the offence.” However, in para 10 of the said judgment, the Hon’ble Supreme Court has observed that, “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.”

13. In the instant case, we repeatedly said about the short span of 7 days of cohabitation of respondent no.2 with her husband in her matrimonial home. Applicant nos. 5 and 6 are residing at different places at a considerable distance. There are no details as to when they had been to Osmanabad from their respective stations i.e. Aurangabad and Panvel respectively. It is also not clear that as to when respondent no.2 alongwith her husband had been to Mumbai to meet applicant no.6. In view of the same, we find the allegations absurd and vague in nature so far as applicant nos. 5 to 7 are concerned. Thus, considering the ratio laid down in the above cited cases and in view of observations made above, 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.5 – Prajakta W/o Sharad Gaikwad, applicant no.6 – Uma W/o Shriniwas Waghmare and applicant no.7 – Shankar S/o Dashrath Waghmare.
- (ii) The criminal application is accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

[V. K. JADHAV]
JUDGE