

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

**CRIMINAL APPLICATION NO. 2406 OF 2020**

Vijay S/o Sikhlal Baviskar ... Applicant

Versus

The State of Maharashtra  
and another ... Respondents

....

Mr. Chaitanya C. Deshpande, Advocate for the Applicant

Mr. R.D. Sanap, APP for Respondent No.1 / State

Mr. S.S. Shinde, Advocate for Respondent No.2

....

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

**DATE : 20<sup>th</sup> OCTOBER, 2021**

**PER COURT:-**

1. The applicant/original accused no.4 is seeking quashing of the FIR no.373 of 2020 registered with Dhule Taluka Police Station for the offences punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code.

2. Learned counsel for the applicant submits that applicant/original accused no.4 is the maternal uncle of co-accused husband. Though his name is mentioned in the FIR, no specific allegations have been made against him. Learned counsel submits that it is a case of over-implication. Learned

counsel submits that the applicant is serving as a Village Development Officer, Shahada attached to Pachayat Samiti, Nandurbar and there are no details as to when and how the applicant has instigated the other co-accused persons by coming to Kalavi, Taluka Malegaon, District Nashik.

3. Learned counsel for respondent no.2 submits that the name of the applicant is mentioned in the FIR with specific role attributed to him. The present applicant alongwith co-accused *nandoi bhau* and *nanand* used to instigate the co-accused husband to ill-treat respondent no.2 on account of non-fulfillment of demand of Rs.1,00,000/-. Even they were instigated the co-accused husband not to allow her to enter into the house unless the demand is fulfilled. Learned counsel submits that the applicant is an influential person and because of his influence, though the crime was registered in the year 2020, the charge-sheet is yet not filed in the Court.

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

5. We have carefully perused the contents of the complaint, so also the police papers. Though, we find the name of the

applicant mentioned in the FIR, however, the allegations are general in nature without quoting any specific incident. It further appears that the allegations are mainly against the Co-accused husband, father-in-law and mother-in-law of respondent no.2-informant. It has been alleged in the complaint that the applicant has instigated the co-accused husband for extending ill-treatment to respondent no.2-informant. However, the allegations are absurd in nature without quoting specific incident.

6. 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.”

7. 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”.

8. 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.”

9. It is well settled that if the allegations are absurd or do not make out any case, the proceedings can be quashed. In the instant case, even if the allegations as against the applicant are taken as proved, no case is made out against them. There is no triable case against the applicant. The applicant is serving as a Village Development Officer, Shahada attached to Pachayat Samiti, Nandurbar. It is not clear from the complaint and even from the statement from the witnesses that as to when and how the applicant had been to village Kalvadi, Taluka Malegaon, District Nashik and instigated the co-accused persons for extending the ill-treatment to respondent no.2-informant.

10. In view of the above and in view of the the ratio laid down by the Honourable Supreme Court in the aforesaid cases, we proceed to pass the following order :

**ORDER**

- (i) Criminal Application is allowed in terms of prayer clauses “B”
- (ii) Criminal Application is accordingly disposed of.

**[ SHRIKANT D. KULKARNI ]**  
**JUDGE**

**[ V. K. JADHAV ]**  
**JUDGE**

S.P Rane