

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

**CRIMINAL APPLICATION NO. 2769 OF 2019**

01 Vilas s/o Kashinath Koli

02 Kashinath s/o Devji Koli

03 Sau. Tilottama w/o Kashinath Koli Applicants

Versus

01 The State of Maharashtra

02 Sau. Surekha @ Samuruddhi w/o  
Vilas Koli Respondents

Mr. R. V. Gore, advocate for the applicants  
Mr. S. J. Salgare, APP for Respondent No.1.  
None present for Respondent No.2.

**CORAM : V.K.JADHAV AND  
SANDIPKUMAR C. MORE, JJ.**

**DATE : 25<sup>th</sup> November, 2021.**

**PC :**

1 Learned Counsel for the applicants, on instructions, seeks leave to withdraw the application of applicant no.1 Vilas s/o Kashinath Koli. Leave granted. Application of applicant no.1 – Vilas s/o Kashinath Koli is dismissed as withdrawn.

2 Applicants are seeking quashing of the First Information Report in connection with Crime No.180/2019,

registered with Biloli Police Station, District Nanded, for the offences punishable under Sections 498A, 323, 504 read with Section 34 of the Indian Penal Code and the criminal proceedings bearing RCC No. 78/2019, arising out of the said crime, pending before the Judicial Magistrate, First Class, Biloli,

3            Learned Counsel for the applicants submits that allegations have been made mainly against co-accused applicant no.1 – Vilas Kashinath Koli, whose application, seeking quashing of the First Information Report and criminal proceedings, came to be dismissed as withdrawn.

4            Learned Counsel submits that though names of applicant no. 2 – Kashinath s/o Devji Koli and applicant no.3 – Tilottama w/o Kashinath Koli, who are father-in-law and mother-in-law of Respondent No.2,, respectively, are mentioned in the First Information Report, allegations against them are general in nature. The learned Counsel submits that even the allegations as against mother-in-law are absurd. The learned Counsel submits that so far as another incident is referred, for which NC No.0433/2019 came to be registered in Jinsi Police Station, Aurangabad, in the month of June 2019, however, said incident is altogether different,

not connected with the allegation of cruelty.

5            Learned A. P. P. submits that names of the applicants are mentioned in the First Information Report with specific role attributed to each one. There is a triable case against both the applicants. There is no substance in this application and application is liable to be rejected.

6            None present for Respondent No.2.

7            We have carefully gone through the allegations made in the complaint and perused the charge sheet. Though we find that names of applicants no.2 and 3 are mentioned in the First Information Report, however, allegations, as against them, are absurd in nature. There are no allegations against father-in-law - applicant no.2 – Kashinath Koli. It further appears that allegations have been made mainly against applicant no.1 – Vilas Kashinath Koli, however, his application, seeking quashing of the proceedings came to be dismissed as withdrawn. There is reference to one NC No.0433/2019 registered at Jinsi Police Station, Aurangabad, on 17.06.2019 in respect of the incident allegedly occurred on 17.06.2019. We have gone through the said NC Report. It appears

that on that day, Respondent No.2 allegedly slapped her minor son and, therefore, sudden incident had taken place in the house. However, said incident is altogether different not connected with the allegation of cruelty.

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.”*

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.”*

11           It is well settled that if the allegations are absurd and no case is made out, the proceedings are liable to be quashed. In the instant case, even if the allegations made against present applicants are held to be proved, no case is made out against them. There is no triable case against them. In view of the same, if the matrimonial proceedings are permitted to be continued against them, same would amount to abuse of Court process.

12           In view of the above and in terms of the ratio laid down by the Hon'ble Supreme Court in the aforesaid cases, we proceed

to pass the following order:

(i) Criminal Application is allowed in terms of prayer clause "B-1" to the extent of applicant no.2 – Kashinath Devji Koli and applicant no.3 – Tilottama Kashinath Koli.

13 Criminal Application is accordingly disposed of.

**(SANDIPKUMAR C. MORE)**  
**JUDGE**

**(V.K.JADHAV)**  
**JUDGE**

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