

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

**CRIMINAL APPLICATION NO. 4 OF 2021**

Suresh Yosef Kambale  
and others

.... Applicants.

Versus

The State of Maharashtra  
and another

.... Respondents.

....

Mr. Pratap B. Vikhe, Advocate for the Applicants  
Mr. G.O. Wattamwar, APP for Respondent No.1 / State  
Mr. M.M. Parghane, Advocate for Respondent No.2

....

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

**DATED : 29<sup>th</sup> SEPTEMBER, 2021**

**PER COURT:-**

1. We have heard learned counsel for the applicants for some time.
2. Learned counsel for the applicants, on instructions, seeks leave to withdraw the application of applicant no.1 Suresh S/o Yosef Kambale, applicant no.2 Yosef S/o Bhaskar Kambale and applicant no.3 Martha W/o Yosef Kambale.

3. Leave granted. The application of applicant nos. 1 to 3 is hereby dismissed as withdrawn.

4. Applicant nos. 4 and 5 are the accused persons in connection with crime no. 917 of 2020 registered with Loni Police Station, District Ahmednagar for the offence punishable under Sections 498-A, 323, 504, 506 r/w 34 of IPC.

5. Learned counsel for the applicants submits that so far as applicant nos. 4 and 5 are concerned, they are maternal uncles of co-accused husband and there are vague allegations against them without quoting any specific incident.

6. Learned counsel for respondent no.2 submits that the names of applicant nos. 4 and 5 are mentioned in the FIR with specific allegations against them. They used to instigate co-accused persons and as a result thereof, other co-accused persons used to beat and ill-treat respondent no.2. Learned counsel submits that the application filed by applicant nos. 4 and 5 is also liable to be rejected.

7. We have also heard learned APP for the respondent-State.

8. We have carefully gone through the police papers, particularly the allegations made in the complaint. Though we find names of applicant nos. 4 and 5 in the FIR, however, the allegations are vague and absurd in nature and no specific incident has been quoted. Applicant nos. 4 and 5 are residing at Kolhewadi, Taluka Sangamner, District Ahmednagar, whereas, the matrimonial home of respondent no.2 is situated at Shrirampur. Respondent no.2 has not quoted any specific incident so far as the alleged instigation on the part of applicant nos. 4 and 5 is concerned.

9. In the case of ***State of Haryana and others v. Ch. Bhajan Lal and others***, reported in **AIR 1992 SC 604**, in para 105 of the judgment, the Supreme Court has formulated the categories of cases by way of illustration, wherein powers under Section 482 of the Code of Criminal Procedure could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

10. 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 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.”

11. 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”.

12. 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.”*

13. In the instant case, from a reading of the complaint, if the allegations as against applicant nos. 4 and 5 herein are taken as it is, no case is made out. The allegations are absurd and do not make out any case. There would be an abuse of process of law if the proceedings remain continued. It is a classic example of over-implication. Applicant nos. 4 and 5 are the maternal uncles of co-accused husband and almost all the family members including the distant relatives have been implicated in connection with the present crime.

14. In view of the above and in term of the ratio laid down by the Hon'ble Supreme Court in the aforesaid cases, 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. 4 Babasaheb S/o Nanasaheb Gaikwad and applicant no.5 Tarachand/Bhima S/o Nanasaheb Gaikwad.

(ii) The criminal application is accordingly disposed of.

[ SHRIKANT D. KULKARNI ]  
JUDGE

[ V. K. JADHAV ]  
JUDGE