

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

941 CRIMINAL APPLICATION NO. 4133 OF 2019

1. AMOL S/O. SIDRAM SULE
2. PUSHPA W/O SIDRAM SULE
3. NITIN S/O SIDRAM SULE
4. SHRADDHA W/O NITIN @ SUDHIR SULE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. B. L. Sagar Killarikar h/f
Mr. Anmole Kedar G.

APP for Respondent No.1 : Mr. R. V. Dasalkar
Advocate for Respondent No. 2 : Mrs. Sharda P. Chate

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**CORAM : V. K. JADHAV AND
SANDIPKUMAR. C. MORE, JJ.
DATED : 16th NOVEMBER, 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 Amol S/o Sidram Sule, applicant no. 3 Nitin S/o Sidram Sule and applicant no. 4 Shraddha W/o Nitin @ Sudhir Sule with liberty to them to file an application for discharge before the trial court in the pending case.

3. Leave granted. The application of applicant no. 1 Amol S/o Sidram Sule, applicant no. 3 Nitin S/o Sidram Sule and applicant no. 4 Shraddha W/o Nitin @ Sudhir Sule is hereby dismissed as withdrawn with liberty to each of them to file application/s for discharge before the trial court in the pending case.

4. Learned counsel for the applicants submits that applicant no. 2 Pushpa w/o Sidram Sule is the mother-in-law of respondent no.2 and though her name is mentioned in the FIR, the allegations as against her are general in nature without attributing any specific role. Learned counsel submits that even the father-in-law is also not implicated in connection with the crime. Learned counsel has pointed out that in the complaint itself, it has been stated that after marriage, respondent no.2 had started cohabiting with her husband at Mumbai. However, the matrimonial home of respondent no.2 is situated at Nanded and applicant no. 2 along with her husband is residing there.

5. Learned counsel for respondent no.2 submits that name of applicant no. 2 Pushpa w/o Sidram Sule is mentioned in the FIR

with a specific role attributed to her. Learned counsel submits that there is a triable case against her.

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

7. We have carefully gone through the allegations made in the complaint so also the entire charge-sheet. Though we find name of applicant no.1 Pushpa w/o Sidram Sule mentioned in the FIR, however, the allegations against her are general in nature without quoting any specific incident as such. It appears that the allegations have been made mainly against co-accused persons i.e. husband Amol, brother-in-law Nitin and his wife Shraddha, whose application seeking quashing of the proceedings and the FIR came to be withdrawn today.

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, 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 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.”

11. It is well settled that if the allegations are absurd and do not make out any case, the proceedings can be quashed. In the instant case, from a reading of the complaint and after going through the charge-sheet, even if the allegations as against applicant no. 2 Pushpa w/o Sidram Sule are taken as proved, no case is made out.

12. In view of the above and in terms of the ratio laid down by the Supreme Court in the above cases, we pass the following order:

ORDER

- I. The criminal application to the extent of applicant no. 2 Pushpa w/o Sidram Sule is hereby allowed in terms of prayer clauses “B” and “E”.
- II. The criminal application is accordingly disposed off.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)