

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO. 1122 OF 2021

APPLICANTS

- : 1 Smt. Sheela Kaple W/o Gangadhar Kaple,
Aged 59 years, O/c – Retired,
R/o Ward No. 4, Meera Colony, Pulgaon,
Wardha, District Wardha (M.H.)
- 2 Priya Kaple D/o Gangadhar Kaple,
Aged – 24 Years, O/c – Student,
R/o Ward No. 4, Meera Colony, Pulgaon,
Wardha, District Wardha (M.H.)
- 3 Mr. Sanjay Gulhane S/o Prabhakar Rao
Gulhane,
Aged – 60 years, O/c – School Principal,
R/o Ghore Nagar, Deomali, Paratwadi,
Paratwada Amravati Road, District –
Amravati (M.H.)

VS.

- NON - APPLICANTS** : 1 State of Maharashtra, Through Police
Station – Mahuli, District Amravati (M.H.)
- 2 Dipika Sandeep Dafe W/o Sandeep Dafe
Aged - 31 Years, O/c – Nil, R/o 1332
Ward no.3, In front of Mahuli Police
Station, Village Mahuli Jahangir, District –
Amravati (M.H.)

Mr. Hitesh Sharma h/f Mr. Raju Kadu, Advocate for the applicants
Mr. T.A. Mirza, APP for the non-applicant No.1 / State

CORAM: VM.DESHPANDE, &
PUSHPA V. GANEDIWALA, JJ.

DATE : OCTOBER 13, 2021

JUDGMENT : (Per : V.M.DESHPANDE, J.)

Rule. Rule is made returnable forthwith. Heard Mr. Hitesh Sharma h/f Mr. Raju Kadu, learned counsel for the applicants and Mr. T.A. Mirza, learned Additional Public Prosecutor for the non-applicant / State.

2. This is an application under Section 482 of the Code of Criminal Procedure for quashing of the charge-sheet filed by Police Station Mahuli Jahangir for the offences punishable under Sections 498-A, 504, 506 read with Section 34 of the Indian Penal Code.

3. According to the learned counsel for the applicants, the applicants are distinct relatives of the non-applicant No.2 – Dipika, who lodged the First Information Report dated 29/01/2021 with Police Station Mahuli Jahangir. Since the oral report given by the non-applicant No.2 was disclosing commission of cognizable offences, Police Station Officer of Mahuli Jahangir Police Station registered crime vide Crime No.28/2021 for offences punishable under Sections 498-A, 504, 506 read with Section 34 of the Indian Penal Code against the accused persons. The applicants are one of them.

4. As per the report the marriage between the non-applicant No.2 and Sandip were performed on 20/06/2017. After the marriage, she started residing with her husband, her mother-in-law

and father-in-law in a building known as Sunrise Complex at Pune. For a period of one year everything went well. Thereafter, there was a delivery of the non-applicant No.2 and a girl child was born. In the meanwhile, her mother-in-law was passed away. During the pregnancy period the non-applicant No.2 quit her job. Quitting a job was not taken in a good spirit by her husband and non-applicant No.2 was driven away from her matrimonial house. She was therefore, required to take shelter at her parents house at Mahuli Jahangir. The complaint states that after the delivery, there took a compromise between husband and wife and wife started residing in her matrimonial house. A complaint states that aunt of Sandeep i.e. the applicant No.1 and her daughter applicant No.2 were called by her husband at Pune and they started residing in the house. The FIR recites and alleges that these two ladies used to beat the first informant. Not only that the FIR further states that after the husband of non-applicant No.2 used to leave house for his job, these two ladies to give mental torture to the first informant. Similarly, the applicant No.3 used to visit regularly at her matrimonial house and during his stay he used to practice mental cruelty on the first informant. There specific allegations against the applicants No.1 and 2 that they used to instigate the husband of the non-applicant No.2 and on her instigation, her husband used to put Dipika's head inside the toilet commode.

5. The Investigating Officer has also recorded statements of various witnesses. Perusal of their statements would show that the non-applicant No.2 was subject to cruelty both mentally and physically not only at the hands of her husband and her father-in-law but by the present applicants also.

6. The learned counsel for the applicants has placed reliance on various decisions. The law is very well crystallized. Every criminal case has to be decided on its own facts.

7. Present is the stage of quashing of the charge-sheet as prayed for. There are specific allegations against the applicants not only in the FIR but also in the statements of witnesses. The truthfulness or otherwise of those allegations have to be tested during trial alone. Merely because it is stated by the learned counsel for the applicants that the applicant No.1 and applicant No.3 are 60 years of age that cannot be the ground for quashment of the charge-sheet because of the specific allegations made against them. The learned counsel submitted that the applicants are residing 600 Km away from the place of residence of non-applicant No.2. The statement of facts as disclosed in the FIR clearly shows that the applicants No.1 and 2 were called by the husband of the non-applicant No.2 to stay with

them at Pune and during their stay there used to be ill-treatment at their hands upon the non-applicant No.2.

8. In view of the specific allegations made, we are of the view that the prosecution needs to be given full opportunity to prove its case in the trial.

9. In view of the specific allegations made in the FIR and the material collected during the course of investigation, which is on record by way of charge-sheet, in order to avoid bulkiness of the judgment, we are not referring the judgments cited by the learned counsel for the applicants. No case is made out.

10. The application is hereby rejected.

11. Rule is discharged.

JUDGE

JUDGE

MP Deshpande