

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

CRIMINAL APPLICATION NO. 290 OF 2022

1. Ravindra Yadavrao Deore,
Age. 28 years, Occ. Service,
R/o. Devur Bu, Tq. And Dist. Dhule
2. Yadavrao Pandit Deore,
Age. 49 years, Occ. Farmer,
R/o. Devur Bu, Tq. And Dist. Dhule
3. Sangita yadavrao Deore,
Age. 42 years, Occ. Household,
R/o. Devur Bu, Tq. And Dist. Dhule
4. Pravin Dinkar Deore,
Age. 37 years, Occ. Service,
R/o. Devur Bu, Tq. And Dist. Dhule
5. Dhanraj Pandit Deore,
Age. 53 years, Occ. Farmer,
R/o. Devur Bu, Tq. And Dist. Dhule
6. Gulab Pandit Deore,
Age. 56 years, Occ. Farmer,
R/o. Devur Bu, Tq. And Dist. Dhule
7. Kishor Vilas Bedse,
Age. 40 years, Occ. Farmer,
R/o. Chichkheda, Tq. Sakri,
Dist. Dhule
8. Savita Vishal Patil,
Age. 25 years, Occ. Household,
R/o. N9, C-1/4, Near Rana Pratap
Chauk, Sawarkar Chauk, CIDCO
Collony, Nasik
9. Vishal Baburao Patil,
Age. 33 years, Occ. Service,

R/o. N9, C-1/4, Near Rana Pratap
Chauk, Sawarkar Chauk, CIDCO
Collony, Nasik

10. Kavita Jitendra Patil,
Age. 30 years, Occ. Household,
Yogeshwar Nagar, Near Morya Nagar,
Dindoli, Surat City, Gujrat

.... Applicant.
[Ori. Accused]

Versus

1. The State of Maharashtra,
Through its Bhadgaon Police Station,
Jalgaon, Tq. And Dist. Jalgaon.
2. Madhuri Ravindra Deore,
Age. 23 years, Occ. Household,
R/o. Ghude, Tq. Bhadgaon,
Dist. Jalgaon.

.... Respondents
[Res. No. 2 Ori. Complainant]

Advocate for Applicant : Mr. Harshal P. Randhir
APP for Respondent No. 1 : Mr. S.D. Ghayal
Advocate for Respondent No. 2 : Mr. G.V. Wani

**CORAM : SMT. VIBHA KANKANWADI
& RAJESH S. PATIL, JJ.**

DATE : 25th AUGUST, 2022.

JUDGMENT [PER : RAJESH S. PATIL, J.] :-

1] By the present application, the applicants who are husband and relatives of husband of respondent No.2 are praying for quashing and setting aside the FIR bearing No. 008 of 2021 registered at Bhadgaon Police Station, Dist. Jalgaon under Sections 498-A, 294, 323, 504, 506, r/w. 34 of IPC and resultant Criminal proceeding bearing RCC No. 40 of 2021.

A. First Information Report contents :

2.1] On the complaint of respondent No.2, F.I.R. No. 08 of 2021 was lodged.

2.2] The respondent No.2 has alleged in the FIR that her husband Ravindra runs a Medical Store. She got married with Ravindra Deore in the year 2019. After marriage she came to know that her husband is having love-affair relations with one Renuka Bhalerao and when she came to know this fact, she informed the father in law and mother in law about the same, but they did not take any action and when her husband got knowledge about this fact of her complaint with the father in law and mother, he beat her.

2.3] Thereafter, in January, 2020, there was a meeting about the harassment being caused to the respondent No.2 at the hands of in-laws, wherein, the present applicants namely, Dhanraj Pandit Deore, Gulab Pandit Deore (cousin father-in-laws) sister in law Savita Vishal Patil, her husband Vishal Baburao Patil, sister in law – Kavita Jitendra and and husband of sister in law – Kishor Vilas Bedse, were present. Thereafter, in February, and March, 2020, the father in law, mother in law and husband demanded Rs. 3 Lakhs for Medical Stores and harassed her mentally and physically.

2.4] The respondent No.2 has alleged that so far as the present applicants are concerned, they instigated the husband to harass her, beat her and ask her to bring money from the parents.

2.5] Thereafter, on 28.6.2020 at 1.00 p.m. when she was at her parental house, the husband, father in law, mother in law, asked her to

bring Rs. 3 Lakhs from her parents and beat her with fist blows abused her and gave threatening that she will be killed by poisoning her.

2.6] The respondent No.2 has alleged that the present applicants came in Cruiser Vehicle at Bhadgaon and they beat her parents, threatened them of life and abused them in filthy language and demanded Rs. 3 Lakhs otherwise, ask respondent No.2 to give divorce to husband Ravindra.

B. Submission in Criminal Application :-

3] The applicants are falsely implicated in the present crime. That the allegations in the present complaint are not acceptable and not sustainable hence registration of FIR is unwarranted hence the FIR needs to be quashed and set aside.

4] The applicant Nos. 4 to 7 are cousin relatives of the applicant No. 1. They all are residing in separate house. The applicant Nos. 4 to 7 is not having any concerned to the day to day activity of the complainants and respondent No. 2. The whole story is self-made, concocted and afterthought. There are no specific allegations against the applicant Nos. 4 to 7.

5] The applicant Nos. 8 to 10 are the married sisters of the applicant No. 1. The applicant No. 9 is the husband of the applicant No. 8. They are residing at different place. There are no specific allegations against the applicant Nos. 8 to 10.

6] The complainant has not made any specific allegation against the present applicants. There is no any criminal antecedent in respect of

present applicants. Only to harass the complainant dragged present applicants in the present crime. The present applicants are innocent persons.

C. Arguments of parties :-

7] Heard Mr. Harshal Randhir, Advocate for the applicant. Mr. S.D. Ghayal, learned APP for the State and Mr. Girish V. Wani, Advocate for respondent No.2.

8] After hearing the parties for some time, when this Court expressed its unwillingness to entertain the application as regards applicant Nos. 1 to 3, the learned counsel for the applicants, on instructions, sought leave to withdraw in so far as applicant Nos. 1 to 3 are concerned. This Court, therefore, vide order dated 9th February, 2022 dismissed the application so far as applicant Nos. 1 to 3 are concerned.

9] Learned counsel Mr. Randhir submitted that the allegations against the present applicant are vague and omnibus in nature. According to him, the applicants are no way concerned with the crime in question. They are distant relatives like, cousin father in laws, sister in laws and their husbands. The applicant Nos. 7 to 9 are residents of Nashik and applicant No.10 is resident of Surat City, Gujarat. They have no concern whatsoever with the harassment of respondent No.2 on account of demand of dowry etc. Though the applicant Nos. 4 to 6 are resident of the same village i.e. Devur Bk. But they have separate residences. Applicant No.4 is cousin brother in law, applicant No.5 and 6 are cousin father in law and they are no way concerned with the alleged offence being committed by the other accused. He submits that the allegations being baseless and the present complaint being filed only with

a view to harass the relatives of the husband, the same needs to be quashed and set aside, to prevent the abuse of process of law. He, therefore, submits that the application be allowed and the FIR be and the criminal proceeding arising therefrom be quashed and set aside.

10] The counsel for the applicants relied upon the judgments in the matter of *Gian Singh Vs. State Punjab*, reported in **(2012) 10 SCC 303**, *Geeta Mehrotra Vs. State of U.P.*, reported in **AIR 2013 SC 181**, and *Shaikh Mushrraf Pasha and others Vs. State of Maharashtra and another*, reported in **2021(2) AVR (Cri.) 343**.

11] Per contra, learned APP and learned counsel for respondent No.2 opposed the application by submitting that there are specific allegations against the present applicants. After solemnization of marriage, the complainant / Informant got knowledge that applicant No. 1 is having illicit relationship with a girl residing in the same village namely Renuka, therefore, the applicant No. 1, did not treat Respondent No. 2, as his wife. When respondent No. 2, informed this fact to applicant Nos. 2 and 3 (parents of applicant No. 1) they did not take any cognizance of the same. The applicant No. 1, used to harass the respondent No. 2, mentally and physically. All other applicants also used to ill-treat the respondent No. 2. Therefore, she has filed complaint which was lodged as FIR. The present Criminal Application seeking quashing of FIR is devoid of merits and hence, the application may be dismissed.

ANALYSIS :-

12] In the present case, the main allegations are against the husband, mother in law and father in law, whose applications are already

withdrawn.

13] Perusal of the FIR shows that the allegation against the present applicant Nos. 4 to 9 is that they have instigated the husband to harass, beat the respondent No.2 and ask her to bring Rs. 3 Lakhs from her parents. Another allegation is that they came to Bhadgaon in a cruiser vehicle and they beat her parents, threatened them of life and abused them in filthy language and demanded Rs. 3 Lakhs otherwise, ask respondent No.2 to give divorce to husband Ravindra.

14] Admittedly, the applicant Nos. 4 to 6, who are cousin brother in law and father in laws and though reside in same village where the respondent No.2 lives with her husband, they have separate residence and hence, there is less likelihood of respondent No.2 being harassed at their hands. Similarly, the applicant Nos. 7 to 10 are sister in laws and their husband. They are residing in Nasik. So there is every possibility of their false implication, in view of the fact that they are married and staying in different city. In the contents of FIR, there are no specific allegations against them. They have no role to play in the matrimonial life of respondent No. 2 with applicant No. 1.

15] We have in our recently decided Criminal Application No.2230/2020 [Narayan s/o Eknath Devkar and others Vs. State of Maharashtra and others, decided on 25.07.2022], after considering the various judgment in paragraph nos. 22 to 24 held that continuation of prosecution against far off relatives would amount to abuse of process of law. The said paragraphs reads thus :

“22] It is important to consider the relevant Provision of Section 482 of the Cr.P.C. which reads thus :-

“482. Saving of inherent powers of High Court. Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.”

23] In the matter of **Gian Singh Vs. State Punjab**, reported in (2012) 10 SCC 303, the Supreme Court observed that it depends on facts and circumstances of each case as to when the High Court can use the powers of quashing criminal proceeding under Section 482 of Cr.P.C.

24] After taking into consideration judgments of the Apex court referred to above, for quashing the criminal proceedings under Section 482 of the Cr.P.C. we have to see, whether the allegations in the complaint and F.I.R. prima facie establish the ingredients of the offence allege. We are of the view that under Section 482 of the Cr.P.C., we have inherent powers to make such orders as may be necessary to prevent abuse of the process of any law to secure the ends of justice. It is also necessary to consider Section 498-A of the IPC, which reads thus :-

“[498A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation.—For the purpose of this section, “cruelty” means—

(a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.]

Therefore, the section contemplates that there has to be “cruelty” committed to a woman by her husband or the relatives of the husband, only then the offence stands proved.”

16] In the matter of Geeta Mehrotra (*supra*), the Supreme Court in para. 19 has observed thus :-

“... When the contents of the FIR is perused, it is apparent that there are no allegations against Kumari Geeta Mehrotra and Ramji Mehrotra except casual reference of their names who have been included in the FIR but mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specially if it happens soon after the wedding.”

It can thus be seen that mere reference to family members without any specific allegations against them would not justify taking cognizance against them. There is a tendency to involve the entire family members in a matrimonial dispute.

17] In the matter of *Shaikh Mushraf Pasha (supra)*, the Division Bench of our High Court in para No. 10 observed thus :

“10. Therefore, continuation of prosecution would be nothing but an abuse of process of law. Moreover, tendency is growing to implicate all the near and dear relatives of the husband. The Hon’ble Supreme Court has deprecated this tendency in the case of *Kans Raj v. State of Punjab*; 2000 (5) SCC 207 : (AIR 2000 SC 2324).”

Thus, the High Court observed that continuance of prosecution against relative of husband is nothing abuse of process of law.

18] We are of the considered view that the respondent No.2 only with an intention to harass the applicants, with ulterior motive, has filed the complaint also against husband's relatives. Continuation of prosecution against present applicants, who are the distant relatives, in our opinion, would amount to abuse of process of law. Hence, we allow the application by quashing and setting aside the FIR bearing No. 008 of 2021 as against applicant Nos. 4 to 10 and further proceedings in RCC No. 40 of 2021 as far as applicants are concerned,

19] In the result, we pass the following order :

ORDER

- i. The Criminal Application is partly allowed.
- ii. The application of applicant Nos. 1 to 3 is dismissed as withdrawn.
- iii. The application is allowed in terms of prayer clauses (B) so far as applicant Nos. 4 to 10 are concerned.
- iv. Criminal Application stands disposed of, accordingly.

[RAJESH S. PATIL]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE