

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

CRIMINAL APPLICATION NO. 347 OF 2020

1. Ganesh Dhondiram Garudkar,
Age. 29 years, Occ. Private Service,
2. Manda Dhondiram Garudkar,
Age. 55 years, Occ. Household,
3. Somnath Dhondiram Garudkar,
Age. 27 years, Occ. Agri.,
4. Sonali Somnath Garudkar,
Age. 22 years, Occ. Household,

All R/o. Akolner, Station Road, Ahmednagar,
Tq. & Dist. Ahmednagar.

5. Sheetal Babasaheb Kachare,
Age. 25 years, Occ. Household,
R/o. Kapurwadi, Ahmednagar,
Tq. & Dist. Ahmednagar.

....Applicants.

Versus

1. The State of Maharashtra
2. Sow. Priyanka Ganesh Garudkar,
Age. 24 years, Occ. Household,
R/o. Sudarshan Colony, Bhingar,
Ahmednagar, Tq. & Dist. Ahmednagar.Respondents.

Advocate for Applicants : Mr. Rohit P. Patwardhan
h/f. Mr. Satej S. Jadhav
APP for Respondent No.1 : Mr. A.M. Phule
Advocate for Respondent No. 2: Mr. N.V. Gaware

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

DATE : 25.11.2022.

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

1. By the present Application filed under Section 482 of the Code of Criminal Procedure, the applicants who are original accused are praying for quashing of FIR bearing Crime No. 0539/2019 registered against them at Ahmednagar Taluka Police Station, Ahmednagar, for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code.

A. FACTS :

2. In the First Informant Report, which is registered as Crime No. 0539/2019, the Informant/respondent No. 2 has stated that she got married on 10.07.2016 with applicant No.1. Out of the said wedlock they have one daughter namely Srushti. It is alleged in the FIR that the applicants who are her husband and in-laws, asked her to bring Rs. 5 Lakhs from her mother. She expressed her disability, hence she was harassed mentally and physically. After she delivered her child and when she returned back to her matrimonial house, the applicants (in-laws) did not take her back in matrimonial house. Four attempts were made for settlement between the parties by the Women Redressal Forum. However, all attempts failed. Therefore, she lodged first information report against

the applicant in the police station.

3. Being aggrieved by the FIR, the applicant No. 1 who is the husband of respondent No. 2, the applicant Nos. 2 to 5 are the in-laws of respondent No. 2, have approached this Hon'ble Court under Section 482 of Cr.p.c. for quashing the FIR.

4. The applicant No. 2 is the mother-in-law of respondent No. 2. the applicant No. 3 is the brother-in-law of respondent No. 2, the applicant No. 4 is the wife of applicant No. 3 and applicant No. 5 is the married sister-in-law of respondent No. 2.

5. The applicants have stated that they have no criminal antecedents in the society. The applicant No. 1 is married with respondent No. 2 in the year 2016. However, there was friction between applicant No. 1 and respondent No.2. Pursuant to which, statements were recorded between the Dilasa Cell of the Local Crime Branch. Before the Dilasa Cell, the respondent No. 2 has not raised any issue as regards demand of money. However, subsequently while filing the FIR a specific allegation as regards demand of Rs. 5 Lakhs, by the applicants has been made by the respondent No. 2. It is stated that the allegations in the FIR are vague and there is no specific role attributed to any of the applicant. Therefore, the FIR should be quashed and set aside.

B. SUBMISSION OF PARTIES :

6. Heard learned Advocate Mr. Rohit Patwardhan holding for learned Advocate Mr. Satej S. Jadhav for the applicants, learned APP Mr. A.M. Phule, for the State / respondent No. 1 and learned Advocate Mr. N.V. Gaware for respondent No. 2.

7. Learned Advocate for the applicants argued that the first information report is filed only to harass the present applicants and there is no any single ingredients which can spell out the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the IPC.

8. It is further argued that the allegations made in the FIR that the applicants demanded Rs. 5 Lakhs from the informant / respondent No. 2 is without any substance.

9. On hearing the parties for considerable time and after showing disinclination to entertain the Criminal Application in respect of applicant No. 1, learned Advocate for applicants sought leave to withdraw the Criminal Application to the extent of applicant No. 1, on instructions of his clients. Hence, the criminal application so far as applicant No. 1 is concerned, stands disposed of as withdrawn.

10. He, therefore, prayed for quashing the FIR to the extent of applicant Nos. 2 to 5.

11. Learned Advocate Mr. Patwardhan further argued that there is variance between the pleadings made before the Dilasa Cell on 05.10.2019 and the FIR dated 17.10.2019. In the FIR there is a statement made by the informant / respondent No. 2 that there is a demand of Rs. 5 Lakhs by all the applicants. However, before the Dilasa Cell, there is no such statement regarding demand of money by the applicants. There is variance between the pleadings shows that the complaint is nothing but a concocted story made against the in-laws to harass them. Therefore, the FIR is required to be quashed and set aside.

12. Learned APP Mr. Phule and learned Advocate Mr. Gaware submitted that the cruelty was done to respondent No. 2 on account of non fulfillment of amount by the respondent No. 2's parents. There are specific allegations made against all the applicants in the FIR, hence there is no question of quashing the FIR against them and the Criminal Application may be rejected.

C. ANALYSIS :

13. For quashing the criminal proceedings under Section 482 of the Cr.P.C. we have to see, whether the allegations in the FIR, *prima facie*, establish the ingredients of the offence alleged.

14. Perusal of the FIR would show that there are

general and vague allegations against applicant Nos. 2 to 5. Applicant No. 5 is the married sister of applicant No. 1 and she is staying separately at Kapurwadi. The applicant No. 5 is not involved in the day to day affairs of the married life of respondent No. 2 and applicant No. 1. In the statement recorded before the Dilasa Cell, the respondent No. 2 does not mentioned about any demand made by the applicants. Fifteen days thereafter, the FIR is lodged, in which, there is allegation about demand of Rs. 5 Lakhs by the applicants. The variance in the statement made within 15 days clearly points out that the statements are made merely to harass the in-laws. Therefore, we are of the considerable view that only with a view to harass applicant Nos. 2 to 5, who are the in-laws, they have been arrayed as accused in the complaint by respondent Nos. 2.

15. The Supreme Court in *Geeta Mehrotra Vs. State of U.P.*, reported in **AIR 2013 SC 181** stated that “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.”

16. Our High Court in *Shaikh Mushrraf Pasha and others Vs. State of Maharashtra and another*, reported in **2021(2) AVR (Cri.) 343**, has observed that continuance of prosecution against relative of husband is nothing but abuse of

process of law.

17. Taking into consideration the ratio laid down in the cases of *Shaikh Mushrraf Pasha* and *Geeta Mehrotra* (supra), we are of the considered view that so far as applicant Nos. 2 to 5 are concerned, there are no specific allegations against them and only with a view to harass them, they have been arrayed as an accused in the FIR.

18. Therefore, in our view, this is a fit case, wherein, we should exercise our discretionary powers under Section 482 of the Code of Criminal Procedure, to quash the FIR and the proceedings arising therefrom as against applicant Nos. 2 to 5. Hence, we pass the following order :

ORDER

i. Criminal Application insofar as applicant No. 1 is concerned, stands disposed of as withdrawn.

ii. Criminal Application so far as applicant Nos. 2 to 5 are concerned, stands allowed in terms of prayer clause 'B'.

iii. FIR vide Crime No. 0539/2019 registered with Ahmednagar Taluka Police Station, Ahmednagar, for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, are quashed and set aside as against the

applicant Nos. 2 to 5 namely Manda Dhondiram Garudkar, Somnath Dhondiram Garudkar, Sonali Somnath Garudkar, Sheetal Babasaheb Kachare, respectively.

iv. Criminal Application stands disposed of.

(RAJESH S. PATIL, J.)

(SMT. VIBHA KANKANWADI, J.)