

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 646 OF 2021

1. Jivan Vinayak Suryawanshi,
Age. 44 years, Occ. Labour,
2. Suvarna W/o. Jivan Suryawanshi,
Age. 33 years, Occ. household,
3. Mayuri @ Shradha D/o. Jivan Suryawanshi,
Age. 20 years, Occ. Education,
1 to 3 R/o. Navhi Galli, Ahmadpur,
Taluka Ahmadpur, District Latur.
4. Anita @ Anuradha D/o. Kamlakar Suryawanshi
After marriage
Anita @ Anuradha W/o. Govind Gaikwad,
Age. 29 years, Occ. Household,
R/o. Sarola Taluka AUSA District Latur. Petitioners
(Original Accused Nos. 5,6,7 & 13)

Versus

1. The State of Maharashtra,
Through Police Inspector,
Shivaji Nagar Police Station, Latur,
Taluka and District Latur.
2. Ganga Shrinivas Suryawanshi,
Age. 28 years, Occ. Service,
R/o. Huseniya Colony, India Nagar, Latur
Taluka and District Latur. ... Respondents
(Original Complainant)

Advocate for Applicant : Mr. D.P. Munde

APP for State : Mr. R.V. Dasalkar

Advocate for Respondent No. 2 : Mr. R.K. Ashtekar

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

DATE : 10th AUGUST, 2022.

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

1. By the present application filed under Section 482 of the Code of Criminal Procedure, the applicant Nos. 1 to 4 who are arrayed as accused Nos. 5, 6, 7 and 13, are praying for quashing and setting aside First Information Report No. 10/2021, which is culminated into charge-sheet No. 49/2021, registered with Shivaji Nagar Police Station, District Latur, for the offences punishable under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code, which is pending before Chief Judicial Magistrate, Latur.

A. FACTS :

2. The respondent No. 2 got married with Shrinivas Sunilrao Suryawanshi on 14th May, 2020, as per hindu rituals and customs. Few days after marriage the respondent No. 2 and Shrinivas (husband) stayed happily. However, soon there were quarrels between the respondent No. 2 and Shrinivas (husband).

3. Consequently, on 04th September, 2020, respondent No. 2 approached the Women Redressal Forum, Latur, with her complaints. As there was no solution, on 02nd January, 2021, respondent No. 2 lodged complaint with Shivaji Nagar Police Station, Latur, against her husband (Shrinivas) and 16 persons being the relatives of her husband, for the offences punishable under Section 498-A, 323, 504, 506, read with 34 of the Indian Penal Code. Accordingly, FIR No. 10/2021 was registered against 17 persons.

4. In the FIR, the respondent No. 2's case was that after 15 days of her marriage, the in-laws treated her badly and demanded Rs.

51,000/- from her. It is further stated in the complaint that all these 17 persons mentioned in the complaint ill-treated her and demanded a sum of Rs. 5 Lakhs for purchasing of a plot. They accordingly, physically and mentally tortured her and kept her hungry.

5. The present applicants are shown as accused Nos. 5,6, 7 and 13 in the FIR No. 10/2021. The applicant No. 1 (accused No. 5) is cousin father-in-law of respondent No. 2, the applicant No. 2 (accused No. 6) is the cousin mother-in-law of respondent No. 2, the applicant No. 3 (accused No. 7) is the cousin sister-in-law, at the relevant time she was stayed at Pune, and applicant No. 4 (accused No. 13) is the cousin married sister-in-law of respondent No. 2. The applicants have filed a present Criminal Application for quashing of FIR and the charge-sheet filed before the learned Judicial Magistrate, against them.

B. SUBMISSION OF PARTIES :

6. Heard learned Advocate Mr. Munde for the applicants, Mr. R.V. Dasalkar, learned APP for State and learned Advocate Mr. R.K. Ashtekar for Respondent No. 2.

7. It is the case of the applicants that they are far of relatives being the cousins of husband of respondent No. 2. In the complaint, these are general allegations against the present applicants.

8. The Respondent No. 2 lodged criminal complaint based on vague allegations against all the applicants, which resulted into filing of FIR against all 17 persons including the applicants. The only statement in the FIR against the present applicants is that all the 17 accused have

ill-treated her and demanded a sum of Rs. 5 Lakhs for purchasing of a plot of land. On the basis of the allegations made in the criminal complaint, no cognizable offence can be said to be made out.

9. Learned APP Mr. Dasalkar and learned Advocate Mr. Ashtekar for respondent No. 2 submitted that specific allegations have been made against all the applicants, hence there is no question of quashing First Information Report.

C. ANALYSIS :

10. Learned counsel for the applicants submitted that applicant No. 3 at the relevant time was studying in Pune. Applicant No. 4 married before 10 years with the Govind Gaikwad since then she is residing in her in-laws house. The applicant Nos. 1 to 3 are residing separately, and applicant No. 4 is residing at Sarola. They are distant relatives of husband of respondent No. 2, and residing separately. Therefore, in our considered view, only with a view to harass the applicants, they has been arraigned as an accused in the compliant by respondent No. 2.

11. The only statement in the FIR against the applicants is that, all the accused have ill-treated her (respondent No. 2) and demanded a sum of Rs. 5 Lakhs for purchasing plot of land and have not given food to her. Except this sentence, there is no other sentence alleged against the applicants. The above sentence does not specifically name applicants personally and also does not clarify how applicants who are residing in different places, could ill-treat or not give food to respondent No.2.

12. We have in our recently in similar kind of fact decided Criminal Application No. 2230/2020, Narayan S/o. Eknath Devkar and others Vs. State of Maharashtra and others, on 25.07.2022.

13. The Apex 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.”

14. Our High Court in *Shaikh Mushrraf Pasha and Others Versus 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.

15. Taking into consideration the ratio laid down in the cases of Geeta Mehrotra, Shaikh Mushrraf Pasha (supra) and Narayan Devkar (supra), we are of the considered view that so far as applicants 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. Therefore, in our view, this is a fit case wherein we should exercise our discretion under Section 482 of the Code of Criminal Procedure to quash the FIR as against the applicants.

ORDER

- i. The Criminal Application stands allowed in terms of prayer clause ‘B’ and ‘B-1’ of the application.

- ii. The Criminal Application stands disposed of,
accordingly.

(RAJESH S. PATIL, J.)

(SMT. VIBHA KANKANWADI, J.)