

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

CRIMINAL APPLICATION NO. 1092 OF 2022

**NAGESH LAXMAN IRALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...

Advocate for Applicants : Mr. Yogesh B. Bolkar
APP for Respondent No.1 : Mr. S. J. Salgare
Advocate for Respondent No.2 : Mr. P. V. Bodke Patil

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**CORAM : MANGESH S. PATIL AND
ABHAY S. WAGHWASE, JJ.**

DATED : 10 OCTOBER 2022

PER COURT :

1. The applicants are praying for quashment of the charge-sheet filed pursuant to the FIR lodge by respondent no.2 for the offences punishable under sections 498-A, 323, 504 and 506 read with section 34 of Indian Penal Code, being Crime No.683 2021 registered with MIDC Police Station, Latur, District Latur.
2. Applicant No.1 is the husband, applicant No.2 is the mother-in-law and applicant No.3 is the unmarried sister-in-law of respondent No.2.
3. To the extent of applicant No.1 the petition was already withdrawn and dismissed by the order dated 5 April 2022.

4. When we expressed our disinclination to entertain the application even to the extent of the applicant no.2 mother-in-law, the learned advocate Mr. Bolkar for the applicants, on instructions, seeks leave to withdraw the application even to her extent.

5. So far as the role attributable to the applicant no.3 is concerned, the learned advocate Mr. Bolkar would vehemently submit that she has been implicated merely because she is husband's sister. No specific role is attributed to her. The allegations regarding physical ill-treatment are attributed to the applicant no.1. Even in respect of the demand for money the role is attributed to the applicant nos.1 and 2 only. Though the name of the applicant no.3 appears in the FIR as also the statements of the witnesses, who are parents and other relatives of the respondent no.2. These statements are also equally vague and omnibus. It would be sheer abuse of the process of law if based on such vague and unsubstantiated allegations, the applicant No.3 is allowed to be prosecuted. He would submit that the case of applicant is squarely covered by the guidelines laid down in the matter of *State Of Haryana And Ors. Vs Bhajan Lal; AIR 1992 SC 604*.

6. Learned APP and the learned advocate for respondent No.2 submit that the FIR as also the witnesses in their statements under section 161 of the Code of Criminal Procedure, specifically named the applicant no.3. Though the applicant no.1 has two sisters, only one of them is being

implicated, which clearly demonstrates the genuineness of the allegations being levelled by respondent no.2. Learned APP also points out that a complaint was lodged by respondent no.2 with the concerned police station on 28 December 2019. All the applicants have indulged in subjecting the respondent no.2 to cruelty on account of their demand for money and other allied reasons as mentioned in the FIR. A fair opportunity deserves to be given to the prosecution to substantiate the allegations even against applicant No.3 and the application be rejected.

7. We have carefully gone through the contents of the FIR and perused the statements of witnesses recorded under section 161 of the Code of Criminal Procedure. As can be made out, the name of applicant No.3 appears in the FIR as also the statements of witnesses. Her name also appears in the complaint lodged by respondent No.2 with the police on 28 December 2019. However, conspicuously she has been named along with other applicants collectively, attributing all of them of demanding the money and subjecting respondent No.2 to cruelty, physical as well as mental.

8. It is trite that a person cannot be made to defend on the basis of vague and omnibus allegations. As laid down in the matter of *Bhajan Lal (supra)*, in all probability, the applicant no.3 seems to have been implicated being the sister of the applicant No.1 residing in the same household. According to us, as has been the matter in the cases of *Geeta Mehrotra Vs.*

State of U.P.; (2012) 10 SCC 741, there is usual tendency to implicate all the relatives of the husband, once a matrimonial disputes starts. This seems to be a kind of case fitting into that category. Pertinently, couple had married in the year 2016 and there is no material to demonstrate that before the couple got separated leading to the filing of the complaint dated 28 December 2019, there were any allegations levelled by respondent no.2 against the applicants much less the applicant No.3.

9. Be that as it may, there are no specific and precise allegations against applicant No.3 and it would be hazardous to make her to defend the prosecution. The case is squarely covered by the guidelines laid down in the mater of ***Bhajan Lal (supra)***.

10. The application is partly allowed to the extent of applicant No.3.

11. The R.C.C. No. 147 of 2022 to the extent of applicant No.3 is quashed and set aside.

(ABHAY S. WAGHWASE, J.)

(MANGESH S. PATIL, J.)