

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

**979 CRIMINAL APPLICATION NO.718 OF 2021**

SUNIL POPATRAO PATIL AND OTHERS  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHER

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Mr. N.L. Choudhari, Advocate for the applicants.  
Mr. S.P. Sonpawale, A.P.P. for respondent No. 1 – State.  
Mr. S.U. Choudhari, Advocate for respondent No. 2.

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CORAM : **V.K. JADHAV AND  
SANDIPKUMAR C. MORE, JJ.**

DATE : 19-01-2022.

**ORDER :**

1. Learned Counsel for the applicants, on instructions, seeks leave to withdraw the application of applicant Nos. 1 to 3.

2. Leave granted.

3. The application of applicant No. 1 Sunil Popatrao Patil (husband of respondent No. 2), applicant No. 2 Kokilabai Popatrao Patil (mother-in-law of respondent No. 2) and applicant No. 3 Pravin Popatrao Patil (brother-in-law of respondent No. 2) is hereby dismissed as withdrawn.

4. The applicants / original accused are seeking quashing of F.I.R. bearing Crime No. 264/2020 registered

with Shirpur City Police Station, Shirpur, District Dhule for the offences punishable under Sections 498-A, 406, 504, 506, 323 read with Section 34 of the Indian Penal code and also seeking quashing of the proceedings vide R.C.C. No. 83/2021 pending before the learned Judicial Magistrate, First Class at Shirpur, District Dhule.

5. Learned Counsel for the applicants submits that the allegations as against these applicants are general in nature without quoting any specific incident. Applicant Manisha is the sister in law and applicant Dilip is brother-in-law of respondent No. 2. Applicants Rekha and Usha are also sisters-in-law, aged 50 years and 64 years respectively. Applicant Prsahant is the son of applicant Usha. It is a case of over implication.

6. Learned Counsel for respondent No. 2 – informant submits that the marriage had taken place on 27.02.2000. However, respondent No. 2 – informant was subjected to ill-treatment on account of non-fulfillment of demand of certain amount. Learned Counsel submits that even in the year 2012, father of respondent No. 2 had purchased one house for co-accused husband by paying an amount of Rs. 4,10,000/-. Learned Counsel submits that the respondent No. 2 was

subjected to cruelty for various reasons. Names of the present applicants are mentioned in the F.I.R. with specific role attributed to each of them. There is no substance in this application. Hence, the application is liable to be dismissed.

7. We also heard learned A.P.P. for respondent No. 1-State.

8. We have carefully gone through the contents of the complaint, so also the charge-sheet. It appears that the allegations have been made mainly against the co-accused husband, mother-in-law and elder brother of co-accused husband namely Pravin whose application seeking quashing of the proceedings, came to be withdrawn. So far as the applicants before us are concerned, the allegations as against them are general in nature without quoting any specific individual incident. Applicants Usha and Prashant are private Medical Practitioners and applicant Rekha is residing at Kurukvade, Taluka Shindkheda, District Dhule. Applicant Rekha, applicant Usha and applicant Prashant are more than 50 years of age. Applicant Dilip i.e. the brother-in-law is 63 years of age. It appears to be a case of over implication since almost all the family members have been implicated in connection with the present crime.

9. In the case of ***Gita Mehrotra and others v. State of U.P. and others***, reported in ***AIR 2013 SC 181***, the Supreme Court has observed that “*Courts are expected to adopt a cautious approach in matters of quashing specially in cases of matrimonial dispute whether the FIR in fact discloses commission of an offence by the relatives of the principal accused or the FIR prima facie discloses a case of over-implication by involving the entire family of the accused at the instance of the complainant, who is out to settle her scores arising out of the teething problem or skirmish of domestic bickering while settling down in her new matrimonial surrounding*”.

10. In the case of ***Neelu Chopra and others v. Bharti***, reported in ***2010 CrLJ 448***, the Supreme Court has observed that, “*In order to lodge a proper complaint, mere mention of the sections and the language of those sections is not be all and end of the matter. What is required to be brought to the notice of the Court is the particulars of the offence committed by each and every accused and the role played by each and every accused in committing of that offence. The complaint in the instant case is sadly vague. It does not show as to which accused has committed what offence and what is the exact role played by these appellants in the commission of offence.*

*There could be said something against Rajesh, as the allegations are made against him more precisely but he is no more and has already expired. Under such circumstances, it would be an abuse of process of law to allow the prosecution to continue against the aged parents of Rajesh, the present appellants herein on the basis of vague and general complaint which is silent about the precise acts of the appellants”.*

11. In the case of ***Taramani Parakh v. State of Madhya Pradesh and others***, reported in ***(2015) 11 SCC 260***, in para 10, 14 and 15 the Supreme Court has made the following observations:

*“10. The law relating to quashing is well settled. If the allegations are absurd or do not make out any case or if it can be held that there is abuse of process of law, the proceedings can be quashed but if there is a triable case the court does not go into reliability or otherwise of the version or the counter-version. In matrimonial cases, the courts have to be cautious when omnibus allegations are made particularly against relatives who are not generally concerned with the affairs of the couple. We may refer to the decisions of this Court dealing with the issue.*

*14. From a reading of the complaint, it cannot be held that even if the allegations are taken as proved no case is made out. There are allegations against Respondent 2 and his parents for harassing the complainant which forced her to leave the matrimonial home. Even now she continues to be separated from the matrimonial home as she apprehends lack of security and safety and proper*

*environment in the matrimonial home. The question whether the appellant has in fact been harassed and treated with cruelty is a matter of trial but at this stage, it cannot be said that no case is made out. Thus, quashing of proceedings before the trial is not permissible.*

*15. The decisions referred to in the judgment of the High Court are distinguishable. In Neelu Chopra v. Bharti, (2009) 10 SCC 184, the parents of the husband were too old. The husband Rajesh had died and main allegations were only against him. This Court found no cogent material against the other accused. In Manoj Mahavir Prasad Khaitan v. Ram Gopal Poddar, (2010) 10 SCC 673 the appellant before this Court was the brother of the daughter-in-law of the accused who lodged the case against the accused for theft of jewellery during pendency of earlier Section 498-A IPC case. This Court found the said to be absurd. In Geeta Mehrotra v. State of U.P. (2012) 10 SCC 741, case was against brother and sister of the husband. Divorce had taken place between the parties. The said cases neither purport to nor can be read as laying down any inflexible rule beyond the principles of quashing which have been mentioned above and applied to the facts of the cases therein which are distinguishable. In the present case the factual matrix is different from the said cases. Applying the settled principles, it cannot be held that there is no triable case against the accused”.*

12. It is well settled that if the allegations are absurd and do not make out any case, the proceedings are liable to be quashed. In the instant case, the allegations as against these applicants are general in nature without quoting any

specific individual incident. Even if those allegations are taken as proved, no case is made out against them. There is no triable case against these applicants.

13. In view of the above and in terms of the ratio laid down by the Supreme Court in the above-cited cases, we proceed to pass the following order.

### **ORDER**

- (i) Criminal Application is hereby allowed in terms of praye clause “B” and “B-1” to the extent of applicants Manisha Pravin Patil, Dilip Shriram Sonwane, Rekha Dilip Sonwane Usha Ravindra Patil and Prashant Ravindra Patil.
- (ii) Criminal Application is accordingly disposed of.

**(SANDIPKUMAR C. MORE, J.)**

**(V.K. JADHAV, J.)**

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