

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

939 CRIMINAL APPLICATION NO.1406 OF 2021

1. Kisan Santaram Shinde
 2. Ramesh Kisanrao Shinde
- ...Applicants

Versus

State of Maharashtra and another

...Respondents

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Advocate for Applicants : Mr. Patel Shaikh Ashpak Taher
APP for Respondent No.1-State : Mr. K.S. Patil
Advocate for Respondent No.2 : Mr. B. B. Kulkarni
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**CORAM : SARANG V. KOTWAL AND
BHARAT P. DESHPANDE, JJ.
DATED : 8th JULY 2022**

PER COURT:-

1. Leave to amend. The amendment be carried out forthwith.
2. This is an application for quashing of the proceedings pending before the J.M.F.C., Aurangabad Vice R.C.C. No. 2266 of 2021 arising out of C.R. No. 50/2021 registered at Jawaharnagar Police Station, Aurangabad under Sections 498-A, 323, 504, 506 r.w. 34 of I.P.C.
3. The applicants allegedly were mediators in the marriage of the informant and her husband. The first informant had got married on 14.8.2020. It is mentioned in the F.I.R. that for her marriage, her father had given ornaments, articles etc. At that time, relatives from both sides were present. In that context, names of both the applicants are

mentioned as they were present. The F.I.R. mentions that she started residing at Pune in her matrimonial house since 6.11.2020. She came to know that her husband was having extra marital affair with a neighbour. When she questioned her husband, he assaulted her. On 1.10.2020, her husband eloped with the said lady. He did not return. It is alleged in the F.I.R. that the informant questioned the applicant No.1 about her husband having such affair. It is alleged that, at that time the applicant No.1 abused and threatened her. The F.I.R. further mentions that the family members of the husband threatened the informant instead of supporting her. On 26.10.2021 the informant came back to reside with her parents at Aurangabad. After that, there was no compromise. The husband put condition that the informant had to adjust with that lady. On the basis of these allegations, the F.I.R. is lodged.

4. Learned counsel for the applicants submitted that there are no allegations against the applicants attracting the provisions of section 498-A of I.P.C. Even otherwise the allegations of abuses and threats are mentioned out of frustration. At the highest, the allegations could be that the applicant No.1 had acted as a mediator but there is nothing to show as to how the applicant No.1 was aware of the affair of the informant's husband with the third lady. Therefore, continuation of this proceeding would amount to abuse of the process of law.

5. Learned counsel for respondent No.2 as well as learned A.P.P. opposed the application. They submitted that when the informant

informed about the conduct of her husband to the applicant No.1, the applicant No.1, instead of supporting her, had abused and threatened her. Therefore, the proceeding should not be quashed.

6. We have considered the charge-sheet, that contains the statements of family members of the informant, who are mother, father, uncle and other members and the neighbours at Pune. The family members of the informant repeated the allegations in the F.I.R. and the neighbours at Pune had not stated anything about the role of the applicants. There is a statement of the informant recorded under Section 164 of Cr.P.C. in which also the same allegations are made. In fact, she has stated that both the applicants were mediators in fixing her marriage and after the informant had told them about the conduct of her husband, they scolded her for not taking proper care of her husband. She has stated that because of their negligence, her life was spoiled. Both the applicants had abused her and had told her that she could take any steps as she thought fit. This particular utterance was treated as a threat by the informant.

7. It can thus be seen that there are no allegations against the present applicants. The provisions of Section 498-A of I.P.C. are not attracted against the applicants. The main culprit in the entire episode is the husband. The applicants do not have any role to play. Even otherwise, as per the version of the informant, at the highest, the allegations are that the applicants had not taken due care in checking

the background of the informant's husband before mediating in the marriage talks. Her statement under Section 164 of Cr.P.C. itself shows that she was angry with these applicants because she held them responsible for her marriage. Her statement also shows that their response was treated as threats. Perusal of the statement, as discussed earlier, does not show commission of any offence alleged against the applicants. They are made accused because of the grudge which the informant was holding against them, as she was holding them responsible for her marriage. In this view of the matter, continuation of the proceedings against the applicants would amount to an abuse of process of law. Therefore, the proceedings against them are required to be quashed. Hence, the following order:-

O R D E R

- I. Criminal application is allowed.
- II. The proceedings pending before the J.M.F.C., Aurangabad vide R.C.C. No. 2266 of 2021 arising out of C.R. No. 50/2021 registered at Jawaharnagar Police Station, Aurangabad under 498-A, 323, 504, 506 r.w. 34 of I.P.C. are quashed and set aside *qua* the applicants.
- III. The application is disposed of.

(BHARAT P. DESHPANDE, J.)

(SARANG V. KOTWAL, J.)