

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

CRIMINAL APPLICATION NO.1008 OF 2021

**PRASAD DEVIDAS SHIMPI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Applicants : Mr. Sudhir P. Telgote
APP for Respondent No.1 – State : Mr. S. S. Dande
Advocate for Respondent No.2 : Mr. G. D. Jain (Appointed)

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

DATE : 17th FEBRUARY, 2022.

PER COURT :

1. The learned counsel for applicants, on instructions, seeks leave to withdraw the application of applicant Nos. 1 and 2. Leave granted. Application of applicant No. 1 Prasad Devidas Shimpi (husband of respondent No.2) and Applicant No.2 Pushpavati Devidas Shimpi (mother-in-law of respondent No.2) is hereby dismissed as withdrawn.
2. Heard finally with the consent of the parties, at the admission stage.

3. The applicants accused are seeking quashing of the FIR bearing Crime No.0259/2020, registered with Deopur Police Station, District Dhule, for the offences punishable under Sections 498-A, 323, 504, 406 read with Section 34 of the Indian Penal Code. Further the applicants are also seeking quashing of the proceedings bearing R.C.C. No.714/2021 pending before the learned Judicial Magistrate First Class, Dhule.

4. The learned counsel for applicants submits that the applicant Nos. 4, 6 and 8 are the married sisters-in-law of respondent No.2 and applicant Nos. 5, 7 and 9 are their respective husbands. So far as applicant No.3 is concerned, she is an unmarried sister-in-law of respondent No.2. The learned counsel submits that allegations have been made mainly against, co-accused husband and mother-in-law, whose applications seeking quashing of the FIR are withdrawn. Though the names of the applicants are mentioned in the FIR, however, the allegations as against them are general and absurd in nature. There is no triable case against them. The learned counsel submits that all the family members have been implicated in connection with the present crime and even the husbands of married sisters-in-law are not

spared. The learned counsel submits that, as per the allegations made in the complaint, even though respondent No.2 informant started residing with her parents after 12-11-2015 the complaint came to be lodged after an inordinate delay of 5 years, without explaining the reason for causing such an inordinate delay in lodging the complaint.

5. The learned counsel for respondent No.2 submits that names of the applicants are mentioned in the FIR. The co-accused husband and mother-in-law used to ill-treat and beat respondent No.2 informant on account of non-fulfillment of demand of Rs.5 Lakhs at the instigation of these applicants. The learned counsel submits that there are specific instances about the said instigation. The learned counsel submits that there is a triable case against all the applicants. There is no substance in this criminal application and thus, the same is liable to be dismissed.

6. We have heard the learned APP for respondent No.1 – State.

7. We have carefully gone through the allegations made in the complaint and also perused the charge-sheet. Though we find

names of the applicants are mentioned in the FIR, however, the allegations as against them are general and absurd in nature. Even though there are allegations about the instigation, however, there are no details as to when these applicants, particularly the sisters-in-law, had been to their parents' house and instigated co-accused to ill-treat respondent No.2 informant on account of non-fulfillment of the demands. The allegations as against them are absurd in nature.

8. In the case of ***Geeta 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."

9. 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”.

10. In the case of *Taramani Parakh Vs. 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.

11. to 13.

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. 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.”

11. In the instant case the allegations are absurd in nature. It is well settled that if the allegations are absurd in nature and no case is made out, then the proceedings are liable to be quashed. The applicant Nos. 4, 6 and 8 are the married sisters-in-law, residing at different places along with their respective husbands and the other family members from the husband's side. Even though no specific role is ascribed, their respective husbands are also not spared. There is no triable case against these applicants. Even if the allegations against these applicants are held to be proved, no case is made out. In view of the same, continuation of the proceedings against these applicants would be abuse of the Court process.

12. In view of the above and in terms of the ratio laid down by the Hon'ble Supreme Court in the above cited cases, we proceed to pass the following order, to the extent of the applicants before us:-

ORDER

- (I) The criminal application is hereby allowed in terms of prayer clause 'B', to the extent of the applicants before us.
- (II) The criminal application is accordingly disposed off.
- (III) We quantify the fees of the appointed counsel at Rs.2,000/-, to be paid by the High Court Legal Services, Sub-Committee, Aurangabad.

(SANDIPKUMAR C. MORE)
JUDGE

(V. K. JADHAV)
JUDGE