

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

985 CRIMINAL APPLICATION NO.1004 OF 2021

1. Laxmikant Kachru Kahar
2. Kachru Laxman Kahar
3. Vimal Kachru Kahar
4. Sindhu Balasaheb Pandore
5. Shaila Rajendra Pandore
6. Sarla Sharad Gangule
7. Rani Kachru Kahar
8. Priyanka Balasaheb Pandure Applicants.

Versus

1. State of Maharashtra
2. Radhika Laxmikant Kahar Respondents

...

Mr. K.M. Shermale, Advocate holding for
Mr. Yogesh Jadhav, Advocate for the applicants.
Mr. S.S. Dande, A.P.P. for respondent No. 1- State.
Mr. S.B. Wakhare, Advocate for respondent No. 2.

...

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

DATED : 7th April 2022.

P.C. :

1. Leave to insert Section 377 of the Indian Penal Code in prayer clause [B] alongwith other sections.

2. Heard finally with consent at the admission stage.

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

4. Leave granted.

5. Application of applicant No.1 Laxmikant Kachru Kahar (husband of respondent No.2.), applicant No.2 Kachru Laxman Kahar (father-in-law of respondent No.2) and applicant No. 3 Vimal Kachru Kahar (mother-in-law of respondent No.2) is hereby dismissed as withdrawn.

6. The applicants before us are seeking quashing of the F.I.R. bearing Crime No.55 of 2021 registered with Loni Police Station, Taluka Rahata, District Ahmednagar for the offences punishable under Sections 498-A, 406, 323, 354, 504, 506 read with Section 34 of the Indian Penal Code.

7. Learned Counsel for the applicants submits that applicant Nos. 4, 5, 6 and 7 are the married sisters-in-law of respondent No.2. They are residing at different places alongwith their respective husbands. Applicant No.8 is the

daughter of applicant No. 4 Sindhu. Learned Counsel submits that though there are allegations against them by referring the incident alleged occurred on 06.06.2017, however, those allegations prima facie do not attract the provisions of Section 498-A of I.P.C. Learned Counsel submits that the allegations have been made mainly against co-accused husband, father-in-law and mother-in-law whose application seeking quashing of F.I.R. came to be withdrawn today. Learned Counsel submits that even in respect of the incident dated 06.06.2017, the allegations appears to be general in nature. It is not clear from the allegations as to why all the sisters-in-law had come to their parents house on 06.06.2017. Learned Counsel submits that further there is no reference as to what happened till 11.11.2019. Learned Counsel submits that even after the alleged incident dated 06.06.2017 and thereafter also the allegations have been made mainly against the co-accused husband, father-in-law and mother-in-law. Learned Counsel for the applicants submits that on the similar set of allegations the learned Single Judge of this Court has quashed the proceedings under the provisions of Domestic Violence Act to the extent of the applicants before this Court excluding the husband, mother-in-law and father-in-law.

8. Learned Counsel for respondent No. 2 – informant submits that respondent No. 2 was treated well for a period of 8 days after the marriage which was solemnized on 21.11.2016. Thereafter she was subjected to ill-treatment on account of non-fulfillment of the demand of Rs. 25,00,000/- for construction of Farm House. Learned Counsel submits that even father of respondent No. 2 had paid certain amount to co-accused husband to fulfill the said demand partly. Learned Counsel submits that even the co-accused father-in-law has misbehaved with respondent No.2- informant on one occasion. Learned Counsel submits that the co-accused husband despite his marriage with respondent No.2, has registered his name in one Marriage Bureau and tried to cheat one girl by name Amita Dongre from Raipur, Chhattisgarh State. Learned Counsel submits that the allegations as against the applicants are serious in nature. There is a triable case against all of them. There is no substance in this criminal application and the same is liable to be dismissed.

9. We have heard learned A.P.P. for the respondent No.1 – State.

10. We have carefully gone through the contents of complaint and also perused the police papers. It appears that except the incident dated 06.06.2017, there are no allegations against these applicants. Applicant Nos.4 to 7, aged 46 years, 40 years, 46 years and 39 years respectively, are the married sisters-in-law of respondent No.2. Though there are certain allegations in respect of the incident allegedly occurred on 06.06.2017, however, the said incident is the sole incident wherein certain allegations have been made against these applicants which do not attract even the ingredients of Section 498-A of I.P.C. It further appears that the allegations have been made mainly against the co-accused, husband, father-in-law and mother-in-law whose application seeking quashing of F.I.R. came to be withdrawn. So far as applicant No.8 is concerned, she is daughter of applicant No.4. Applicant Nos.4 to 8 are residing at different places.

11. In the case of ***Taramani Parakh v. State of Madhya Pradesh and others***, reported in (2015) 11 SCC 260, in para 10 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 F.I.R. / proceedings are liable to be quashed. In the instant case, even if the allegations made against the applicants before us are held to be proved, no case is made out. Further more, it is a case of over-implication. All the family members including married

sisters-in-law and the daughter of sister-in-law have been implicated in connection with the crime. In view of the same, continuation of the proceedings against them would be an abuse of the process of the Court.

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

ORDER

- (I) Criminal Application is hereby allowed in terms of prayer clause [B] to the extent of applicant Nos.4 to 8.
- (ii) Criminal Applicant is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)

(V.K. JADHAV, J.)