

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPLICATION NO.1005 OF 2021**

NAMDEO PATILBA BUGGE AND OTHERS ..APPLICANTS

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER ..RESPONDENTS

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Mr. Ashish P. Shinde, Advocate for the Applicants.
Mr. S. J. Salgare, APP for Respondents-State.
Mr. U. S. Patil, Advocate for Respondent No.2.

...
**CORAM : SARANG V. KOTWAL
AND
BHARAT P. DESHPANDE, JJ.
DATED : 11th JULY, 2022.**

PER COURT:-

1. This is an application for quashing of the proceedings vide R.C.C. No. 722/2021 pending before the Judicial Magistrate First Class, Parner, District Ahemadnagar arising out of C.R. No. 139/2020 registered at Parner Police Station, Tq. Parner, Dist. Ahemadnagar, for the offences punishable under Sections 498-A, 323, 504, 506 of the Indian Penal Code (I.P.C. for short).

2. Heard learned counsel for the parties.

3. At the outset, learned counsel for the applicants states that, he is not pressing this application to the extent of applicant nos.1, 2 and 3. He seeks withdrawal of application on their behalf with liberty to approach the trial court by way of application for discharge. Permission to withdraw application to the extent of applicant nos.1, 2 and 3 with such liberty is granted.

4. Application therefore, survives only in respect of applicant nos.4 and 5.

5. The FIR is lodged by respondent no.2. She got married with Swapnil Buge. The applicant no.4-Sujata is Swapnil's sister, applicant no.5-Santosh is applicant no.4's husband.

6. The FIR mentions that, respondent no.2 got married with Swapnil on 25.11.2018. At that time, her parents spent for expenses, articles, ornament etc. After marriage, she went to reside at Navi Sangvi, Pune with husband Swapnil. She left her job. Initially, she was treated properly, but thereafter, father-in-law, mother-in-law and brother-in-law started harassing her on the ground that enough money was not spent during the marriage and also on other domestic issues. There are allegations that, when she was residing with her husband at Navi Sangvi, Pune, at that time applicant nos.4 and 5 also used to visit her matrimonial house and used to instigate her husband, because of which the husband used to assault her. On 19.08.2019, all the accused including the present applicants asked her to bring Rs.5,00,000/- from her parents and did not allow her to join her duty at her job. On 21.08.2019, she was driven out of her matrimonial house. Thereafter, she came to reside with her father at her parental house. After that, her father requested the husband and his family members many

times to take her back to her matrimonial house, but they did not come to take her back and after that she lodged FIR.

7. Learned counsel for the applicants submitted that, there are only vague allegations against applicant nos.4 and 5. They were not even residing with the informant in her matrimonial house. He invited our attention to her complaint filed before the Magistrate under the Protection of Women from Domestic Violence Act, 2005 (for short 'D.V. Act'). In that application also present applicants are shown as respondent nos.5 and 6. However, in that entire complaint, there are no allegations against these applicants. Even, in respect of the incident dated 19.08.2019, there are no allegations specifically against these two applicants. This complaint under D.V. Act was filed on 17.12.2019, whereas, the present FIR was filed on 02.03.2020.

8. Learned counsel for respondent no.2 as well as learned APP strongly opposed this application. They submitted that, not only the FIR, but statements of other witnesses also specify the roles of these two applicants. There are specific allegations that, these two applicants used to visit the informant's matrimonial house and used to instigate her husband.

9. We have considered these submissions and

we have also perused the charge-sheet which contains statements of the informant's father-Bhausahab, Mother-Sunita, brother-Mahadu, another uncle-Tukaram and other relative Bhaskar. All the statements are similar and they repeat the allegations made in the FIR. As far as both these applicants are concerned, as rightly submitted by the learned counsel for the applicants their role is not mentioned in the earlier complaint filed before the Magistrate under D.V. Act. Even, in the present F.I.R., there are only vague and general allegations that, whenever they used to visit the informant's matrimonial house at that time they used to instigate her husband.

10. As far as the incident dated 19.08.2019 is concerned, in the D.V. Act proceedings, there are no allegations against these two particular applicants, but in the FIR they are roped in alongwith other accused. It does appear that, these two applicants were residing separately. The applicant no.4 is a married sister of the husband. She was residing with applicant no.5-Santosh her husband at a different place. The allegations against these two applicants are vague and general. The other accused were residing together. Therefore, case against the applicant nos.4 and 5 is separable. It does appear that, they are roped in to pressurize entire family of husband. In this view of the matter, continuation of proceeding against these two applicants would amount to abuse

of process of law and proceeding against them needs to be quashed. Hence, the following order:

ORDER

- a. The application as far as applicant nos.1, 2 and 3 is allowed to be withdrawn with liberty to approach the trial court by way of application for discharge. If such, application is preferred, it shall be decided on its own merits, in accordance with law.
 - b. The proceedings in connection with R.C.C. No. 722/2021 pending before the Judicial Magistrate First Class, Parner, District Ahemadnagar arising out of C.R. No. 139/2020 registered at Parner Police Station, Tq. Parner, Dist. Ahemadnagar, for the offences punishable under Sections 498-A, 323, 504, 506 of the Indian Penal Code are quashed in respect of applicant no.4-Sujata Santosh Mhaske and applicant no.5-Santosh Sudam Mhaske only.
11. The Criminal Application is disposed of.

(BHARAT P. DESHPANDE)
JUDGE

(SARANG V. KOTWAL)
JUDGE