

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

CRIMINAL APPLICATION NO. 1180 OF 2022

1. Chandrakant Mohan Pandhare (Father-in-law),
Age : 71 years, Occu. Retired.
2. Mangal Chandrakant Pandhare (Mother-in-law),
Age : 65 yrs., Occu. Household,

Both R/o. 781, Surana Building,
Tofkhana, Nagar,
Tq. And Dist. Ahmednagar.
3. Neeta Sanjay Sarode (Sister-in-law),
Age : 48 yrs, Occu. Service
4. Sanjay Bhagwan Sarode (Husband of sister-in-law),
Age : 52 yrs., Occu. Service,

Applicant no. 3 and 4
R/o. H. No. 72, Samta Colony,
Burudgaon Road, Fulsundar Mala,
Ahmednagar.
5. Maya Sanjay Kharave (Sister-in-law),
Age : 46 yrs., Occu. Service
6. Sanjay Dharmaraj Kharave (Husband of sister-in-law)
Age : 49 yrs., Occu. Service,

Applicant no. 5 and 6
R/o. 31/B, Sai Prasad Housing Society,
Nagar Manmad Road, Laxmiwadi,
Shirdi, Tq. Rahata, Dist. Ahmednagar.
7. Durga Yugendra @ Sachin Prayage (Sister-in-law),
Age : 37 yrs., Occu. Household
8. Sachin @ Yugendra Gopal Prayage (Husband of sister-in-law),
Age : 41 yrs., Occu. Service,

Applicant no. 7 and 8,
R/o. Brahaman Galli, Behind Fort,
Lasalgaon, Dist. Nashik.

9. Suvarna Milind Mule (Sister-in-law),
Age : 44 yrs., Occu. Household

10. Milind Rajaram Mule,
Age : 47 yrs., Occu. Service,

Applicant no. 9 and 10
R/o. Ambika Nagar, Deolali Pravara,
Tq. Rahuri, Dist. Ahmednagar.

...Applicant

Versus

1. The State of Maharashtra

2. Sarika Mahendra Pandhare,
Age : 35 years, Occu. Household,
R/o. C/o. Rajendra Kanhayalal Nandode,
Anuradha Apartment, G. S. High School,
Plot No. 1, Amalner, Tq. Amalner,
Dist. Jalgaon.

...Respondents

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Mr. R. K. Temkar, Advocate for the Applicants

Mr. A. M. Phule, APP for respondent/State

Mr. A. S. Kale i/b Talekar & Associates for respondent no. 2

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AND

CRIMINAL APPLICATION NO. 1692 OF 2022

Mahendra s/o Chandrakant Pandhare (Husband of respdt. no.2),
Age : 40 years, Occu. Service,
R/o. 781, Surana Building, Tofkhana,
Nagar, Tq. And Dist. Ahmednagar.

...Applicant

Versus

1] The State of Maharashtra

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- 2] Sarika Mahendra Pandhare,
Age : 35 yrs., Occu. Household,
R/o. C/o. Rajendra Kanhayalal Nandode,
Anuradha Apartment, G. S. High School,
Plot No. 1, Amalner, Tq. Amalner,
Dist. Jalgaon.

...Respondents

.....
Mr. R. K. Temkar, Advocate for the Applicants
Mr. A. M. Phule, APP for respondent/State
Mr. A. S. Kale i/b Talekar & Associates for respondent no. 2
.....

**CORAM : SMT. VIBHA KANKANWADI
AND
RAJESH S. PATIL, JJ.**

DATE : AUGUST 20, 2022

ORAL JUDGMENT [PER RAJESH S. PATIL, J.] :-

1. Both the Criminal Applications have been filed under Section 482 of Cr.P.C. for quashing the FIR vide C.R. No. 0070/2022 dated 12.02.2022 registered at the instance of respondent no. 2 with Amalner Police Station, Dist. Jalgaon, for the offence punishable under Sections 498A, 323, 504 and 506 of the Indian Penal Code.

FACTS :-

2. The marriage of respondent no. 2 was solemnized with applicant no. 1 on 25.10.2018, according to the Hindu rites and rituals. They have no issue in a said wedlock.

3. It is alleged in the First Information Report filed by respondent no. 2 that the couple were living happily and peacefully for a period of 10 to 15 days. Soon thereafter, the husband, father-in-law and mother-in-law of respondent no. 2 started saying that they were not given dowry, golden ornaments and proper respect in the marriage. Again after a fortnight, the other applicants adopted the language used by applicant nos. 1 and 2 i.e. father-in-law and mother-in-law and made unlawful demand of Rs. 20.00 lakhs for purchasing a house, respondent no. 2 said that her father has expended huge amount in the marriage and now he doesn't have money and upon saying so, the applicants got annoyed and they beat and abused respondent no. 2. Respondent no. 2 informed the said incident to her parents.

4. It is further alleged in the FIR that, thereafter, on 02.10.2019, in-laws and husband of respondent no. 2 again asked respondent no. 2 to bring from her parents an amount of Rs. 20.00 lakhs for purchasing house in Nashik and when respondent no. 2 denied for the same, she was abused, beaten up and driven out of the house. Thereafter, she left for her maternal home and since then she has been staying with her parents. Thereafter, her husband came to Amalner to take her back to her matrimonial home and on signing the agreement, respondent no. 2 went along with her husband at Yeola, Nashik. Again after a fortnight, when husband of respondent no. 2 took her to his parents at Ahmednagar, she was driven out of the house and thereafter, both applicant (husband) and respondent no. 2 came back to Yeola.

5. It is further alleged in the FIR that, on 29.12.2021, applicant (husband) again asked respondent no. 2 to bring Rs. 20.00 lakhs from her parents to purchase a house in Nashik and when respondent no. 2 denied, she was beaten and abused by her husband. When she threatened of going to Police, she was threatened of life by her husband. Respondent no. 2 then approached the Yeola Police Station and registered N.C. against her husband. Thereafter, when her husband came to know about filing of N.C., he abused and beat her and drove her out of the house. Ever since, she is staying with her parents at Amalner. It is further alleged that on 06.02.2022, when respondent and her parents were at home, the applicants excluding mother-in-law came and demanded divorce by handing over divorce papers and when parents of respondent no. 2 tried to convince the applicants, they beat parents of respondent no. 2 and also said that the applicants have filed cases against them at Yeola and if she comes to Yeola, she will be killed. Hence, respondent no. 2 has filed complaint as referred to above against all the applicants.

6. The applicants have stated in the Criminal Application that the complaint filed by the present respondent no. 2 is nothing but concoction of false incidents and only with a view to harass the applicants, she has lodged false complaint. After seven days of the marriage, the respondent no. 2 and applicant (husband) had started residing at Yeola, as applicant (husband) works as Clerk in the Court at Yeola and, therefore, the allegations of ill-treatment and harassment at the hands of applicants are false.

7. The applicants have further stated in the application that there was dispute between the applicant (husband) and respondent no. 2 when they were residing at Yeola. Respondent no. 2 had called her parents at Yeola and they had assaulted the applicant (husband) and thereupon applicant (husband) had filed FIR bearing No. 143/2009 against the respondent no. 2 and others at Yeola Police Station, for the offences punishable under Sections 143, 147, 149, 324, 323, 504, 506 and 427 of the Indian Penal Code on 03.10.2019. Due to the said complaint, the relations between the couple were strained and therefore she filed proceedings under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. The said proceedings, after compromise, were withdrawn on 25.09.2021. The respondent no. 2 again filed proceedings under Section 125 of the Code of Criminal procedure against the applicant (husband) seeking maintenance and same was withdrawn after compromise. The respondent no. 2 again filed Cri. M. A. No. 14 of 2020 seeking reliefs under the provisions of Domestic Violence Act.

8. The applicants have further stated in the Criminal Application that even after the strained relations, the applicant (husband) tried to cohabit with respondent no. 2 by signing document/agreement by mutual consent, which was executed on 28.06.2021. All the applicants in Criminal Application No. 1180 of 2022 stay at Ahmednagar and only with a view to harass all the applicants, the respondent no. 2 has filed complaint against them. Hence, it is prayed that the FIR be quashed against all the applicants.

SUBMISSIONS: -

9. Heard Mr. R. K. Temkar learned advocate for the applicants, Mr. A. M. Phule, learned APP for the State, and Mr. A. S. Kale i/b Talekar & Associates for respondent No.2.

10. Learned counsel for the applicants submitted that the allegations levelled against the applicants are false. The respondent no. 2 only with a view to wreak vengeance on the applicants have arrayed them in the offence in question. It is nothing but concocted story, as no incident as alleged in the FIR has taken place. He further submits that all the applicants reside separately from applicant (husband) and respondent no. 2 and they have never shared common shelter with them. He further submits that, applicant (husband) serves in a Court at Yeola and both applicant (husband) and respondent no. 2 were staying at Yeola, Nashik. The applicants have nothing to do with the marital life of respondent no. 2 and they have been roped in the offence in questions only with an intention to pressurize them. On the basis of the allegations made in the criminal complaint, no cognizable offence can be said to have made out. He, therefore, prayed that the Criminal Applications be allowed.

11. After hearing the parties for sometime, when this Court showed disinclination to grant relief in favour of applicant (husband) in Criminal Application No. 1692 of 2022, the learned counsel for the applicant, on instructions, sought to withdraw the said application. Leave granted. The Criminal Application No. 1692 of 2022 stands disposed of as withdrawn. Now, therefore, only Criminal Application No. 1180 of 2022 is considered.

12. Learned counsel for the applicants further stated that the vague and general allegations have been levelled against the applicants. He further submits that, complaint is instituted with an ulterior motive for wreaking vengeance on the applicants and with a view to spite them due to private and personal grudge. The delay caused in registering the complaint is unexplained which washes out it's credibility. No specific allegation is attributed to any of the applicants. All the applicants in the present application i.e. Criminal Application No. 1180 of 2022 are relatives and reside at different places in Ahmednagar. He, therefore, prays for allowing the application.

13. Learned APP – Mr. A. M. Phule, learned APP for the State, and Mr. A. S. Kale i/b Talekar & Associates for respondent No.2 submitted that specific allegations have been made against all the applicants, hence there is no question of quashing of FIR against the applicants.

ANALYSIS : -

14. For quashing the criminal proceedings under Section 482 of the Cr.P.C. we have to see, whether the allegations in the complaint and F.I.R. *prima facie* establish the ingredients of the offence alleged. We are of the view that under Section 482 of the Cr.P.C., we have inherent powers to make such orders as may be necessary to prevent abuse of the process of any law to secure the ends of justice.

15. On perusal of the FIR, it is clear that the applicant nos. 1 and 2, who are old aged in-laws of respondent no. 2, reside at
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Ahmednagar. Applicant No. 3 and 4 works in different departments at Ahmednagar and both of them reside in Ahmednagar. Applicant no. 5 is the married sister-in-law of respondent no. 2 and works as Asst. Tacher in the Girls School run by Shirdi Sansthan and resides with her husband in Rahata, Dist. Ahmednagar. Applicant no. 7 is the married sister-in-law of respondent no. 2 and stays with her husband in Lasalgaon at Nashik. Applicant no. 9 is also married sister-in-law of respondent no. 2 and stays with applicant no. 10 at Deolali Pravata, Tq. Rahuri, Dist. Ahmednagar. As such, all these applicants never stayed with respondent no. 2 and accused (husband). All these applicants in Criminal Application No. 1180 of 2022 are relatives of husband of Respondent No. 2. There are vague allegations against them in F.I.R. On the basis of the allegations made in the Criminal Complaint, no cognizable offence can be said to have been made out.

16. We have in our recently decided Criminal Application No.2230/2020 [Narayan s/o Eknath Devkar and others Vs. State of Maharashtra and others, decided on 25.07.2022], after considering the various judgments in paragraph nos. 22 to 27, held that continuation of prosecution against far off relatives would amount to abuse of process of law.

17. The Apex Court in **Geeta Mehrotra Vs. State of U.P.**, reported in AIR 2013 SC 181 stated “It can thus be seen that mere reference to family members without any specific allegations against them would not justify taking cognizance against them. There is a tendency to involve the entire family members in a matrimonial dispute.

18. Our High Court in **Shaikh Mushrraf Pasha and others Vs. State of Maharashtra and another**, reported in 2021(2) AVR (Cri.) 343, has observed that continuance of prosecution against relative of husband is nothing but abuse of process of law.

19. Thus, we are of the considered view that the respondent No.2 only with an intention to harass the applicants, has filed the complaint also against far off relatives i.e. applicants. Continuation of prosecution against Applicants, who are far off relatives of husband and who stay separately in their own houses, in our opinion, would amount to abuse of process of law.

20. Taking into consideration the ratio laid down in the cases of Gian Singh and Geeta Mehrotra (supra), we are of the considered view that so far as applicants in Criminal Application No. 1180 of 2022 are concerned, there are no specific allegations against them and only with a view to harass them they have been arrayed as an accused in the FIR. Therefore, in our view, this is a fit case wherein we should exercise our discretion under Section 482 of the Code of Criminal Procedure to quash the FIR against the applicants.

ORDER

- I] Criminal Application No. 1692 of 2022 stands disposed of as withdrawn.
- II] Criminal Application No. 1180 of 2022 stands allowed in terms of prayer clause 'B' of the application.

[RAJESH S. PATIL]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE