

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

990 CRIMINAL WRIT PETITION NO. 666 OF 2021

1. Mrs. Shimla Kewal Krishan Singla .. Petitioners
Age.71 years, Occ. Homemaker,
R/o.69, Good Earth Colony,
Near Hembagh, Patiala,
Dist. Patiala, State. Punjab.
2. Tarun Kewal Krishan Singla
Age.41 years, Occ. Service,
R/o. Waterford Diamond Tower,
Sukhumvit, Bangkok,
Thailand.
[Petition to the extent of petitioner No.2
is withdrawn as per order dated 10.08.2021]

Versus

1. The State of Maharashtra .. Respondents
Through S.B. Jalna Police Station,
Dist. Jalna.
2. Mrs.Megha Tarun Singla,
Age.36 years, Occ. Homemaker,
R/o.c/o. Anand Kumar Gupta,
1-20-10, Dr. Rajendra Prasad Road,
BadiSadak, Jalna,
Tq. & Dist. Jalna.

Mr.Anil M. Gaikwad, Advocate for the applicant.
Mr.M.M. Nerlikar, APP for the respondent/State.
Mr.Y.B. Bolkar, Advocate for respondent No.2.

**CORAM : V.K. JADHAV &
SANDIPKUMAR C.MORE,JJ.
DATED : 29.03.2022**

PC :-

01. Heard finally with the consent of learned Counsels for the parties at the admission stage.

02. The petitioner, who is mother-in-law of respondent No.2, aged 71 years is before us for seeking quashing of FIR in Crime No.278 of 2021, registered with S.B. Jalna Police Station for the offences punishable under sections 323, 498(A), 504 of the Indian Penal Code.

03. Learned Counsel for the petitioner submits that the allegations have been made mainly against co-accused husband, whose petition seeking quashing of the FIR came to be withdrawn. The husband of respondent No.2 is working as a Purchase Manager for Proctor and Gambler Company at Bangkok and presently he is staying at Bangkok only. Even after the marriage respondent No.2 had gone to Bangkok along with husband and stayed with him for some time. Learned Counsel submits that the allegations as against the petitioner, who is mother-in-law, are

general and absurd in nature. It has been merely alleged in the complaint that she used to harass mentally and physically by making phone calls to respondent No.2. Learned Counsel submits that there is no evidence against the petitioner.

04. Learned Counsel for respondent No.2 submits that name of the petitioner is mentioned in the FIR with specific role attributed to her. Learned Counsel submits that it has been specifically alleged in the complaint that respondent No.2 was subjected to ill-treatment on account of non-fulfillment of demand of Rs.25 lakhs for purchase of motor vehicle and therefore she was forced to leave her matrimonial home on 25.02.2021. There is triable case against the petitioner. There is no substance in the petition. Same is, thus, liable to be dismissed.

05. We have also heard learned APP for the respondent/State.

06. On careful perusal of the contents of the complaint and investigation papers, we find that the allegations have been made mainly against co-accused husband, whose petition seeking quashing of the FIR came to withdrawn. Though name of petitioner is mentioned in the FIR, however, allegations against her are general and absurd in nature. Respondent No.2 has gone to the extent by making allegations that she was subjected to mental and physical harassment by the petitioner by making phone calls to her. Though there are no details of said phone calls, however, it is difficult to accept that respondent No.2 was also subjected to physical harassment by making phone calls.

07. 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."

08. 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".

09. 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. 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."

10. It is well settled that if the allegations are absurd and no case is made out, the FIR/proceedings are liable to be quashed. In the instant case, so far as the the allegations made against the petitioner are taken as proved, no case is made out against the petitioner. There is no triable case against the petitioner. In view of the same, continuation of case as against the petitioner in

terms of the allegations made in the FIR would be an abuse of process of the Court.

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

O R D E R

(i) Criminal Writ Petition is allowed to the extent of petitioner before us in terms of prayer clause (B).

(ii) Criminal Writ petition is disposed of.

(iii) Since Mr. Y.B. Bolkar is appointed to represent the cause of respondent No.2, we quantify his legal fees and expenses at the rate of Rs.2000/- (Rupees Two Thousand) to be paid by the High Court Legal Services Sub-Committee, Aurangabad. At the request of learned appointed Counsel, the amount shall be transferred to the account of High Court, Aurangabad Bar Library.

[SANDIPKUMAR C. MORE,J.]

[V.K. JADHAV,J.]