

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

957 CRIMINAL APPLICATION NO.1341 OF 2021

Sandeep Shantaram Sonawane
and others

Applicants

Versus

The State of Maharashtra and
another

Respondents

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Mr. Dhananjay Mane, Advocate for the applicants.
Mr. R.V. Dasalkar, A.P.P. for respondent No. 1- State.
Mr. V.P. Raje, Advocate for respondent No. 2.

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

DATE : 22-03-2022.

P.C. :

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

2. Leave granted.

3. Application of applicant No.1 Sandeep Shantaram Sonawane (husband of respondent No. 2.), applicant No.2 Kamalbai w/o Shantaram Koli (mother-in-law of respondent No.2) and applicant No. 3 Vishal Shantaram Koli (brother-in-

law of respondent No. 2) is hereby dismissed as withdrawn.

4. Heard finally with consent at the admission stage.

5. The applicants - accused are seeking quashing of the F.I.R. bearing Crime No. 71/2021 registered with Thalner Police Station, Taluka Shirpur, District Dhule for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code.

6. Learned Counsel for the applicants submits that in all 13 accused persons have been arrayed as accused in connection with the present crime. Learned Counsel submits that the allegations have been made mainly against co-accused husband, mother-in-law and brother-in-law whose application seeking quashing of F.I.R. came to be withdrawn today. So far as the applicants before the Court are concerned, though their names are mentioned in the F.I.R., however, the allegations made against them are general in nature without quoting any specific incident ascribing the role individually.

7. Learned Counsel for respondent No. 2 submits that she was treated well for one year after the marriage in

the year 2013 and thereafter subjected to ill-treatment for various reasons. Learned Counsel submits that the allegations are made against all the applicants ascribing specific role to each of them. There is triable case against all the applicants. There is no substance in this criminal application and the same is liable to be dismissed.

8. We have also heard learned A.P.P. for respondent No. 1- State.

9. We have gone through the contents of the complaint and also perused the police papers. Even though we find names of the applicants mentioned in the F.I.R., however, the allegations as against them are general and absurd in nature. It appears that almost all the family members have been implicated in connection with the present crime. It is a clear-cut case of over-implication.

10. In the case of *Gita 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.”

11. 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”.

12. In the case of ***Taramani Parakh v. State of Madhya Pradesh and others***, reported in (2015) 11 SCC 260, in paragraph Nos.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.”

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.”

13. In the instant case, even if the allegations as against the applicants are held to be proved, no case is made out. In view of the same the continuation of the proceedings as against them would be abuse of process of the Court.

14. In view of the above and in terms of the ratio laid down by the Supreme Court in the above-cited cases, we are inclined to quash the F.I.R. as against the applicants before us. Hence, we pass the following order.

ORDER

- (i) Criminal Application is hereby allowed to the extent of applicant Nos.3 to 13 in terms of prayer clause [B].
- (ii) Criminal Application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)

(V.K. JADHAV, J.)