

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

924 CRIMINAL APPLICATION NO.1347 OF 2021

WALMIK ANANDA BAGUL (PATIL) AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicants : Mr. Sonar Anudeep D.
APP for the respondent – State : Mr. S.J. Salgare
Advocate for the respondent no. 2 : Mr. S.U. Chaudhari
...

**CORAM : MANGESH S. PATIL &
ABHAY S. WAGHWASE, JJ.**

DATE : 10 NOVEMBER 2022

PC :

This is an application under section 482 of the Code of Criminal Procedure seeking withdrawal of the FIR and consequent chargesheet in connection with crime no. 12 of 2021 registered with Dhule Taluka Police Station, Tq. and District - Dhule for the offences punishable under section 498A, 323, 504, 506 r/w. 34 of the Indian Penal Code.

2. Learned advocate for the applicants would submit that the allegations in the FIR are as vague as it could be. Respondent no. 2 had cohabitated with applicant no. 1 for 11 years and the couple had begotten couple of children. There were no previous allegations. For the first time, grievance was put up in the form of the FIR regarding the alleged ill-treatment. No specific and precise role is attributed to any of

the applicants except the husband. It would be hazardous to make them face the prosecution with such vague and omnibus allegations.

3. Learned APP and learned advocate for the respondent no. 2 would take us through the FIR, supplementary statement of the respondent no. 2 as also the statement of the witnesses who are her relatives which according to them prima facie corroborate the allegations. They submit that an opportunity needs to be extended to the prosecution to lead independent and convincing evidence. There is no sufficient reason to quash the proceedings at the threshold.

4. After hearing both the sides, when we expressed our disinclination to grant any relief to applicants nos. 1 to 3 on merits, their learned advocate seeks leave to withdraw the application to their extent.

5. In the matter of *Kahkashan Kausar alias Sonam and others*; (2022) 6 SCC 599, the Supreme Court had an occasion to consider the case having a startling similarity of facts with the matter in hand. Like the present matter, the allegations in the FIR lodged in that matter by wife were equally vague and omnibus. Collectively by referring to all the accused, allegations were levelled regarding the alleged ill-treatment.

6. It would be profitable to quote para 18 of the judgment of the Hon'ble Apex Court in ***Kahkashan Kausar alias Sonam and others*** (supra) which has been specifically relied on by learned counsel for the applicants :

“18. Coming to the facts of this case, upon a perusal of the contents of the FIR dated 1-4-2019, it is revealed that general allegations are levelled against the appellants. The complainant alleged that “all accused harassed her mentally and threatened her of terminating her pregnancy”. Furthermore, no specific and distinct allegations have been made against either of the appellants herein i.e. none of the appellants have been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are, therefore, general and omnibus and can at best be said to have been made out on account of small skirmishes. Insofar as husband is concerned, since he has not appealed against the order of the High Court, we have not examined the veracity of allegations made against him. However, as far as the appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution.”

Even in the matter in hand, except saying that even the applicants nos. 4 and 5 were instigating the rest of the applicants in subjecting the respondent no. 2 to cruelty, no further details can be found. Her supplementary statement as also the statement of her relatives which are recorded under section 161 of the Code of Criminal Procedure are equally vague. No specific and precise allegations exclusively attributing role to applicants nos. 4 and 5 can be found.

7. In our considered view, the matter deserves to be considered favourably to the extent of the applicants nos. 4 and 5. It is clearly an instance where an inference can certainly be discerned that an attempt has been made to rope in them with some ulterior motive. The case is squarely covered by the principles laid down in the matter of ***Kahkashan Kausar*** (*supra*).

8. Application to the extent of applicants nos. 4 and 5 is allowed.

9. Application to the extent of applicants nos. 1 to 3 is dismissed as withdrawn.

10. Application is disposed of.

[ABHAY S. WAGHWASE]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/