

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

950 CRIMINAL APPLICATION NO.1750 OF 2021

PRIYANKA GANGADHAR NARWADE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicants : Mr. D. J. Patil, h/f Mr. M. P. Bhaskar
APP for Respondent no.1-State: Mr. R. V. Dasalkar
Advocate for Respondent no.2 : Mr. S. J. Salunke
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**CORAM : V. K. JADHAV AND
SANDIPKUMAR C. MORE, JJ.
DATED : 5th JANUARY, 2022.**
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ORDER :

1. By consent of the parties, heard finally at admission stage.
2. Learned counsel for the applicants submits that charge sheet has been submitted excluding applicant no.2 Pramod, no.4 Jyoti and no.5 Sunita. In view of the same, if no charge sheet has been submitted against them, their application seeking quashing of the proceeding stands disposed of.
3. In so far as other applicants i.e. applicant Nos. 1, 3 and 6 are concerned, they are seeking quashing of the FIR bearing Crime No. 196 of 2021, registered with Chandanzeera Police Station, District Jalna for the offence punishable under Sections

498A, 323, 504 and 506 read with 34 of IPC and also seeking quashing of the proceeding bearing RCC No. 1112 of 2021, pending before Judicial Magistrate (First Class), Jalna.

4. Learned counsel for the applicants submits that though the names of applicants are mentioned in the FIR, the allegations as against them are only to the extent that they have instigated co-accused for extending ill-treatment to respondent no.2 for various reasons. Learned counsel submits that however, applicant no.1 Priyanka is the sister-in-law of respondent no.2. In the year 2020, she was selected as a Tax Assistant and before that she was working as a clerk in the Civil Court at Vaijapur. So far as applicant no.3- Milind and applicant no.6-Chandrakant are concerned, they are maternal uncles of husband of respondent no.2 and the allegations as against them are absurd in nature. Learned counsel submits that it is a case of over implication.

5. Learned counsel for respondent no.2 submits that though applicant no.1 Priyanka is sister-in-law, was serving as a clerk in the Civil Court at Vaijapur, however, due to the lock-down, she was residing in his parents house at Aurangabad and after due investigation, charge sheet has also been filed against her. Learned counsel submits that the names of applicant nos. 3 and

4 are also mentioned in the FIR with specific role attributed to each of them. There is a triable case against them. No case is made out for quashing. Criminal application is thus liable to be dismissed.

6. We have also heard the learned APP for respondent no.1-State.

7. On going through the allegations made in the complaint and the charge sheet, though we find the names of the applicants are mentioned in the FIR, however, the allegations as against them are absurd. There are vague allegations about the instigation without attributing any specific role. It further appears that the allegations have been made mainly against co-accused husband, father-in-law, who are not before us as the applicants. It is a case of over-implication. The applicant no.1 Priyanka was initially serving as a clerk in Civil Court at Vaijapur and thereafter selected as a Tax Assistant and posted at Malegaon, District Nashik.

8. 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 “the 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.”

9. In the case of ***Neelu Chopra and others vs. Bharti***, reported in 2010 Cr.L.J. 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 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.”

10. 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 made 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 No.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, 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 other accused. In Manoj Mahavir, 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 498A case. This Court found the said case to be absurd. In Geeta Mehrotra, 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."

11. It is well settled that if the allegations are vague in nature, criminal proceedings are liable to be quashed. In the instant

case, the allegations as made against present applicants are even if held to be proved, no case is made out. There is no triable case against the applicants. It is a case of over implication.

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

ORDER

- I) Criminal Application is allowed in terms of prayer clause "B and B-1".
- II) Criminal Application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)

vsm/-