

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

CRIMINAL APPLICATION NO. 1844 OF 2021

- 1] Subhash s/o Tulsiram Bramhraj [Brother of mother-in-law]
Age : 49 years, Occu. Service,
R/o. Flat No. B-9, Prabhashree,
Ramlal Apartment Mama,
Chouk Padampura, Aurangabad.
 - 2] Pushapa w/o Naresh Shirsath [Sister of mother-in-law]
Age : 50 years, Occu. Asha Sevika,
R/o. Nagsen Nagar, Usmanpura,
Aurangabad.
 - 3] Supriya w/o Mahadev Sonwane [Sister-in-law]
Age : 30 years, Occu. Asha Sevika,
R/o. Nagsen Nagar, Usmanpura,
Aurangabad.
-Applicants**

Versus

- 1] State of Maharashtra
 - 2] Karuna w/o Sanjay Jadhav,
Age : 32, Occu. Household,
Rohilagad, Tal: Ambad, Dist. Jalna,
at present : Mohan Nagar,
Balajinagar, Siddhi Colony,
Aurangabad.
-Respondents**

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Mrs. Savita P. Kakade (Matkar), Advocate for the applicants
Mr. S. D. Ghayal, APP for respondent no. 1 / State
Mr. Prashant S. Shinde, Advocate for respondent no. 2

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

DATED : 24th NOVEMBER, 2022

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

1. By the present application filed under Section 482 of the Code of Criminal Procedure, the applicants are praying for quashing of FIR bearing C.R. No. 371/2021 registered at Ambad Police Station, Tq. and Dist. Jalna, for the offence punishable under Sections 498A, 323, 504, 506 of the Indian Penal Code and the proceedings being RCC No. 500/2021 pending before the Judicial Magistrate First Class, Ambad, Dist. Jalna.

FACTS : -

2] The Informant/respondent no. 2 got married with accused no.1 i.e. Sanjay Ashok Jadhav on 26.05.2019. They have no issue from the said wedlock. Initially one and half years after marriage, respondent no. 2 was treated well by the applicants and other accused. Thereafter, in-laws started ill-treating the informant/respondent no. 2. Thereafter, in-laws and husband of respondent no. 2 made an unlawful demand of Rs. 2.00 lakhs from her for seeking job and for opening a new school. It is also alleged that due to non-fulfillment of the said demand, the in-laws started ill-treating respondent no. 2 / informant. Being fed up with the continuous ill-treatment, respondent no. 2 / informant filed complaint against her husband and in-laws.

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3] The applicants are arraigned as accused nos. 5 to 7. It is stated that in the Criminal Application that the applicants are resident of Aurangabad whereas; respondent no. 2 was staying in the matrimonial home at Jalna. Therefore, there was no question of ill-treatment being meted out to informant/respondent no. 2, at the hands of applicants. Present applicants are the brother of mother-in-law of informant, sister of mother-in-law of informant and sister-in-law of the informant, respectively. The FIR is filed at Ambad Police Station, Jalna. The contents of the complaint does not disclose any specific incident. This itself shows that the complaint is nothing but a concocted story made merely to harass the applicants. Therefore, the FIR and the criminal proceedings are required to be quashed and set aside.

SUBMISSIONS: -

4] Heard advocate Mrs. Savita P. Kakade (Matkar) for the applicants, APP Mr. S. D. Ghayal for respondent no. 1 / State and Advocate Mr. Prashant S. Shinde for respondent no. 2.

5] Advocate for the applicants argued that the FIR is filed to harass the applicants and there are no specific ingredients which can spell out the offence punishable under Section 498A, 323, 504 and 506 of the IPC.

6] It is further argued that the allegation was made that the applicants and other accused demanded a sum of Rs. 2.00 lakhs for opening a new school and as the said demand was not fulfilled, informant / respondent no. 2 was ill-treated. The said allegation has no basis and in any case the present applicants, who are residing at different places than the place where the offence in question has taken place, has no concern at all with the married life of informant / respondent no. 2.

7] The applicants are not involved in the affairs of the married life of respondent no. 2 with her husband. The allegations made are not only false but incorrect and so absurd that no prudent man can accept the same. The material particulars relating to the alleged ill-treatment and harassment are also lacking. Respondent no. 2 lodged FIR only with an ulterior motive to cause harassment to the distant relatives of the husband. Respondent no. 2 has exaggerated the domestic dispute so as to rope maximum number of family members in the case. In view of this, the FIR and the proceedings arising therefrom deserves to be quashed and set aside.

8] Learned APP – Mr. S. D. Ghayal for the State and counsel for respondent no. 2 - Mr. Prashant S. Shinde submitted that

respondent no. 2 was subjected to cruelty on account of non-fulfillment of the monetary demand and specific allegations have been made against the accused persons in the FIR including the present applicants and hence there is no question of quashing the FIR against them and the application be rejected.

ANALYSIS : -

9] 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.

10] Perusal of the FIR would reveal that there are general and vague allegations against the present applicants who are brother of mother-in-law of the informant, sister of mother-in-law of informant and sister-in-law of the informant, respectively. All of them are staying at Jalna which is far away from the matrimonial home of the respondent no. 2. The applicants are not involved in the day to day affairs of the married life of respondent no.2 / informant with her husband. So also, it is pertinent to note that the allegation in the FIR is that the demand of Rs. 2.00 lakhs was made by the accused persons for starting a new school. No reasonably prudent person can believe that a new school can be set up at just Rs. 2.00 lakhs.

11] Therefore, in our considered view, the applicants have been arraigned in the case only with a view to harass them.

12] 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.

13] This 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 relatives of husband is nothing but abuse of process of law”.

14] The Hon’ble Apex Court in the case of **State of Haryana and others vs. Ch. Bhajan Lal and others** reported in **[1992 Supp (1) SCC 335]**, wherein the Supreme Court has held that the High Court can quash the FIR to protect the accused from malicious prosecution. When a criminal proceeding is instituted with *mala fide* intention to harass the person, the court can quash the entire proceeding for the ends of justice. The Supreme Court has issued seven guidelines which

should be followed by the Court in the exercise of its inherent power vested by Section 482 of the Code of Criminal Procedure.

15] Thus, we are of the considered view that the respondent No.2 only with an intention to harass the applicants has filed complaint against them. Continuation of prosecution against applicants, who are distant relatives and stay separately in their own houses, in our opinion, would amount to abuse of process of law.

16] Taking into consideration the ratio laid down in the cases of **Geeta Mehrotra, Shaikh Pasha and Ch. Bhajan Lal** (supra), we are of the considered view that so far as applicants are concerned, there are no specific allegations against them and only with a view to harass them they have been arrayed as 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 and the proceedings arising therefrom against the applicants.

ORDER

[i] Criminal Application is allowed in terms of prayer clause 'A-1' and 'B' of the application.

[ii] FIR bearing C.R. No. 371/2021 registered at Ambad Police Station, Tq. and Dist. Jalna, for the offence punishable under

Sections 498A, 323, 504 and 506 of the Indian Penal Code and the proceedings being RCC No. 500/2021 pending before the Judicial Magistrate First Class, Ambad, Dist. Jalna, are quashed and set aside to the extent of applicants herein, namely, Subhash s/o Tulsiram Bramhraj, Pushapa w/o Naresh Shirsath and Supriya w/o Mahadev Sonwane.

17] Criminal Application stands disposed off.

[RAJESH S. PATIL]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE