

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

908 CRIMINAL APPLICATION NO.2254 OF 2019

1. Janardhan Govind Bibe,
2. Baydabai Janardhan Bibe,
3. Govind Janardhan Bibe,
4. Rupali Govind Bibe,
5. Mangal Sanjay Gadhave,
6. Sanjay Tukaram Gadhave,
7. Anita Narayan Atole,
8. Narayan Sambhaji Atole. **... Applicants**

Versus

1. The State of Maharashtra.
2. Monika Ramesh Bibe. **... Respondents**

...

Mr. Satyajit S. Bora, Advocate for Applicants.

Mr. K. S. Patil, APP for Respondent/State.

Mr. Sudarshan J. Salunke, Advocate for Respondent No. 2.

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CORAM : **SARANG V. KOTWAL AND
BHARAT P. DESHPANDE, JJ.**

DATE : 23rd June, 2022.

PER COURT:

. This is an application for quashing of criminal proceedings pending vide R.C.C. No.5 of 2016 in the Court of 2nd Joint Judicial Magistrate First Class, Ashti, District Beed under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code. The case arises out of investigation into the offence registered vide C.R. No.74 of 2015 at Ambhora Police Station, Ashti, District Beed.

2 The FIR is lodged by the informant Monika. She was married to Ramesh Bibe. All the applicants are relatives of Ramesh. The applicant Nos.1 and 2 are his parents. The applicant No.3 is his brother. The applicant No.4 is wife of applicant No.3. The applicant No.5 is Ramesh's sister. The applicant No.6 is the applicant No.5's husband. The applicant No.7 is Ramesh's another sister and the applicant No.8 is the husband of the applicant No.7.

3 The FIR mentions that the informant was married with Ramesh on 30th May, 2013. After her marriage, she went to reside in her matrimonial house with Ramesh at Goyegaon, Taluka Karmala, District Solapur. The family consisted of Ramesh, his parents, his brother applicant No.3 Govind and Govind's wife applicant No.4.

Ramesh was employed in S.R.P. at Daund and he was residing at Daund. He used to visit Goyegaon on holidays. It is mentioned in the FIR that other applicants used to visit the informant's matrimonial house frequently. There are general allegations that during that time all the accused including all the applicants used to pass offensive remarks and used to cause physical and mental harassment to the informant. There are general allegations that all the accused Nos.1 to 9 used to tell the informant to bring money from her father. The FIR further mentions that she came to know that her husband Ramesh was having extramarital affair with a lady. That lady came to the house of Ramesh at Daund and there was quarrel. After that, there was some compromise between Ramesh and that lady. After that, her husband Ramesh started causing more harassment to the informant. In September, 2014, the couple was blessed with a child. It is her case that nobody visited to see her newborn son. After that, the informant approached the Court under the provisions of the Protection of Women from Domestic Violence Act. On 21st April, 2015, a compromise was entered in those proceedings. On 26th April, 2015, the informant went to reside at Goyegaon. She was accompanied by the applicant No.1. The FIR mentions that again there all the accused including all the applicants caused harassment to the informant. It is alleged that they demanded cost of litigation incurred by their family. They demanded Rs.2,00,000/- for that purpose. On 18th May, 2015, the informant went

to Daund to reside with Ramesh. The FIR mentions that on the instigation of all the applicants, Ramesh assaulted her and demanded money. On 19th June, 2015, Ramesh asked her to leave the house. She immediately gave complaint to police station at Daund and since then she was residing with her uncle and aunt at Dongan, Taluka Ashti. On 28th June, 2015 in the night, all the accused allegedly went to that place and threatened the informant and her relatives. On this basis, she filed complaint in the Court of Magistrate. Pursuant to the order passed under Section 156(3) of the Code of Criminal Procedure by learned Magistrate; this FIR was registered. The investigation was carried out and the charge-sheet was filed.

4 Learned counsel for the applicants submitted that it is a clear case of abuse of process of law. All the applicants are unnecessarily dragged in the dispute between the husband and wife. The main grievance was only against husband Ramesh and to pressurize the entire family, all these applicants including married sisters and their husbands, who were residing elsewhere in different districts were also roped in. The applicant No.1 is almost 80 years of age and the applicant No.2 is also old and the criminal proceedings are causing great harassment to them.

5 Learned counsel for the respondent No.2 as well as the learned APP opposed this application. Learned counsel for the respondent No.2 submitted that in the charge-sheet, there are statements of a milkman and the informant's aunt in support of the allegations in the FIR. He submitted that, considering the specific references to the applicants' names, in the FIR as well as in the statements of other witnesses, it is not a case where the proceedings can be quashed.

6 We have considered these submissions. We have also carefully perused the statements referred to by learned counsel for the respondents. Basically all these statements relied on the information provided by the first informant because nothing had occurred in front of them, except for the incident dated 28th June, 2015. The FIR itself indicates that the main cause of dispute between the informant and her husband Ramesh was the husband's alleged affair with the third lady. The FIR itself mentions that some documents in the nature of compromise was executed between Ramesh and that third lady. The informant herself had approached Daund Police Station after she was thrown out of her house by her husband Ramesh. During all that time, there was hardly any grievance against the applicants. It is only subsequently when there was no further development, this complaint is lodged.

7 The statement of milkman Dinkar Thorat shows that on 20th June, 2015 he had heard some quarrel in the house of informant's uncle Ramesh. At that time Ramesh told him that the in-laws of the informant were demanding Rs.2,00,000/-. This witness does not know any of the applicants. Therefore, his statement is of no significance. There are statements of Latabai and Ramesh, who are uncle and aunt of the informant. Latabai and Ramesh had referred to this quarrel, but they are not very specific and even the dates are not clearly mentioned in their statements. Even otherwise, these statements do not throw any light on the allegations of commission of offence punishable under Section 498-A of the Indian Penal Code, which the informant is alleging, against the applicants. Therefore, even their statements are of no significance. Apart from them, the statements of parents of the informant make reference to the information given by the informant herself. Thus, we find that the allegations against the present applicants are vague and not specific. They are general and exaggerated. Therefore, continuation of the criminal proceedings against these applicants will be an abuse of process of law. In this view of the matter, this is a fit case where the proceedings against these applicants can be quashed. Hence, the following order:

ORDER

- I. In application is allowed.
- II. The proceedings pending in the Court of 2nd Joint Judicial Magistrate First Class, Ashti, District Beed vide R.C.C. No.5 of 2016 arising out of C.R. No.74 of 2015 registered at Ambhora Police Station, Ashti, District Beed, are quashed and set aside qua the present applicants.
- III. The application is disposed of accordingly.

*nga***[BHARAT P. DESHPANDE, J.]****[SARANG V. KOTWAL, J.]**