

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

CRIMINAL APPLICATION NO. 2413 OF 2019

- 1) Parwati Mahadeo Dandgule
 - 2) Ishwar Mahadeo Dandgule
 - 3) Archana @ Usha w/o Ishwar Dandgule
 - 4) Nilkanth s/o Mahadeo Dandgule
 - 5) Satyabhama Margu Kusalkar
- ... **Applicants**

VERSUS

- 1) The State of Maharashtra
 - 2) Surekha Sambhaji Dandgule
- ... **Respondents**

...

Advocate for the Applicants : Mr. Ashok D. Raut
APP for the Respondent No. 1 : Mr. Govind O. Wattamwar
Advocate for Respondent No. 2 : Mr. Shaikh Shafique A.R. Ahmed.

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

DATE : 14.11.2022.

PER COURT :

This is an application under Section 482 of the Code of Criminal Procedure by the relatives of the husband of the respondent No. 2 for quashment of the crime and the subsequent criminal case arising out of it being Crime No. 110/2014, registered with Majalgaon City Police Station, District Beed, for the offences punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code and the Regular Criminal Case No. 81/2016 pending on the file of the learned Judicial Magistrate First Class Majalgaon.

2. The learned advocate for the applicants would submit that they have

been roped in without specific and precise allegations merely because they are the relatives of the husband. The husband has been serving in armed forces and have been posted at various places, whereas, the applicants are residing at the native places in Latur and Osmanabad districts. The couple had got married way back in the year 2004 and had begotten couple of daughters. The dispute for the first time had occurred in the year 2014. Even a maintenance proceeding under Section 125 of the Code of Criminal Procedure was lodged by the respondent No. 2 with her minor daughters against her husband. It was compromised in the month of January 2014. They had resumed marital ties and had decided to cohabit. Even he agreed to credit 50% of his salary in the name of respondent No. 2 and the daughters. The learned advocate, therefore, would submit that post such settlement, all the incidents which had taken place allegedly prior to 2014 were decided to be forgotten once for all. Without disclosing anything about such compromise and as to what had happened pursuant thereto, a vague F.I.R. has been lodged with omnibus allegations right from the date of marriage. Though the names of the applicants appear in the F.I.R., no exclusive role is attributed to any of them. It is an attempt to harass the relations of the husband without substance. Following the principles laid down by the Supreme Court, it is a fit case to quash and set aside the crime and the case is squarely covered by the principles laid down in the matter of **State of Haryana and Ors V/s. Bhajan Lal and Ors.: AIR 1992 Supreme Court 604.**

3. The learned A.P.P. and the learned advocate for the respondent No. 2 oppose the application. They submit that the F.I.R. cannot be expected to be an encyclopedia. The allegations have been levelled against each of the applicants. The very fact lodging of a proceeding for maintenance under Section 125 of the Code of Criminal Procedure is demonstrative of some harassment meted out to the respondent No. 2. The prosecution and the respondent No. 2 deserve an opportunity to substantiate the allegations

which can happen only during trial and the application be rejected.

4. We have carefully considered the rival submissions and perused the copy of the charge-sheet.

5. The F.I.R. in substance alleges about the marriage having taken place on 20.09.2004 and the respondent No. 2 begetting couple of daughters. Thereafter she was subjected to physical and mental harassment by all the applicants and the husband on account of her inability to beget a son and by raising a demand for money for construction of a house and buying a motor cycle. It also alleges about she having from time to time informed her parents and brother about such illtreatment. It also alleges about the husband being addicted to liquor and all the applicants and the husband having told her not to come back for cohabitation unless money was brought. This is all. True it is that a care has been taken to name all the applicants in the F.I.R. but no specific and exclusive role is attributed to any of the applicants. The applicants are the mother in law, sister in law, brothers in law and wife of a brother in law.

6. Pertinently, the fact that the respondent No. 2 had filed a proceeding under Section 125 of the Code of Criminal Procedure in the year 2014 and the matter having been compromised has not been controverted. A copy of that application with the compromise terms are available to be seen on the record. She had agreed to resume cohabitation and the husband had agreed to maintain her property and to transfer 50% of his salary in her account. If such is the state of affairs, it was, in the normal course, expected of the respondent No. 2 to have been more specific as to what had happened pursuant to such compromise. Not only the F.I.R. but her supplementary statement is silent on this aspect.

7. For that matter, even the statements of her parents and brother are equally vague. They have in unison stated about the alleged demand for money and subjecting the respondent No. 2 to cruelty. These statements are

also equally vague and omnibus like the F.I.R. and the supplementary statement of the respondent No. 2.

8. In similar cases scenario, in the matter of **Kahkashan Kausar alias Sonam and others Vs. State of Bihar; (2002) 6 SCC 599** similar were the vague and omnibus nature of allegations against the relatives of the husband and following observations were made in paragraph No. 18 :

“18. Coming to the facts of this case, upon a perusal of the contents of the F.I.R. 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.”

In our considered view, the case in hand is squarely covered by these observations.

9. It would be sheer abuse of process of law as contemplated in the matter of **Bhajan Lal (supra)** to permit prosecution of the applicants with such scant, vague and omnibus material. It does appear that the respondent No. 2 has implicated the applicants with the obvious objective.

10. The Application is allowed. Crime No. 110/2014, registered with

Majalgaon City Police Station, District Beed, for the offences punishable under Sections 498A, 323, 504 read with Section 34 of the Indian Penal Code and the Regular Criminal Case No. 81/2016 pending on the file of the learned Judicial Magistrate First Class Majalgaon is quashed and set aside.

(ABHAY S. WAGHWASE J.)

(MANGESH S. PATIL, J.)

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