

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

CRIMINAL APPLICATION NO 2084 OF 2021

1) Jyoti w/o Sunil Dokhe
(sister in law of respondent No. 2)
Age 38 years, Occ. Housewife,
R/o. Loni, Tq. Rahata, Dist.Ahmednagar.

2) Bebi w/o Shankarrao Jadhav
(mother in law of respondent No. 2)
Age 56 years, Occ. Service (Cook)
Dr. Rajendra Prasad Primary Ashram
School, Senit, Tq. Akole, Dist.
Ahmednagar, R/o. Senit, Tq. Akole,
Dist. Ahmednagar.

... **Applicants**
(Orig. accused)

VERSUS

1) The State of Maharashtra,
Through Investigating Officer
Kotwali Police Station, Ahmednagar,
Tq. & Dist. Ahmednagar.

2) Suvarna w/o Nilesh Salve,
Age 26 years, Occ. Household,
R/o. Padegaon, Tq. Shrirampur,
Dist. Ahmednagar,
at present Railway Station road,
Ahmednagar, Tq. & Dist. Ahmednagar,

... **Respondents**
(Orig. Complainant)

...

Advocate for Applicants : Mr. Narwade Narayan B.
A.P.P for Respondent No. 1 : Mr. Sachin J. Salgare
Advocate for Respondent No. 2 : Mr. Uma Bhosale

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

DATE : 11.10.2022.

PER COURT : (PER : MANGESH S. PATIL, J.)

The applicants are seeking quashment of criminal case initiated by

the respondent No. 2 which culminated in filing of the charge-sheet against them for the offences punishable under Section 498A, 323, 504 of the Indian Penal Code.

2. The learned advocate Mr. Narwade for the applicants would submit that the F.I.R. is vague. No specific and precise role has been attributed to the applicants. Only a vague and isolated sentence is appearing against each of them. There are no allegations about any demand. The only cause for the dispute seems to be the questionable character of the husband of the respondent No. 2. The couple was married in the year 2008 and till 2020 there was no dispute. Going by the allegations and the evidence collected by the investigating officer, in all probability the applicants are being implicated with some vengeance being mother and sister of the husband. He would submit that following the principles laid down in the matter of **State of Haryana Vs. Bhajan Lal; 1992 SCC (Cri) 426** it would not be appropriate to permit the applicants to be prosecuted.

3. The learned A.P.P. and the learned advocate for the respondent No. 2 submit that though vague, there are allegations against both the applicants. At this juncture no inference should be drawn. The prosecution should be given sufficient opportunity to substantiate the allegations which can happen only during the course of trial.

4. The learned A.P.P. would cite the decision of the Supreme Court in the matter of **Taramani Parakh Vs. State of Madhya Pradesh and others; (2015) 11 Supreme Court Cases 260** to substantiate his submissions that the so-called vague allegations should not be given much weight at this stage.

5. We have carefully considered the rival submissions and perused the papers. The F.I.R. *inter alia* alleges that after the respondent No. 2's marriage in the year 2008 she had started cohabiting with the husband and the applicants. She gave birth to a daughter. Since inception she was subjected to physical and mental harassment. Her husband was of

questionable character and whenever she used to question him he assaulted and neglected her. The applicant No. 2 that is mother in law used to abuse and mentally harasses her for petty reasons and the applicant No. 1 that is sister in law also mentally harassed her whenever she came back to matrimonial home. The F.I.R. further reads that when the respondent No. 2 raised topic regarding some relations of the niece, her husband assaulted her. She further states that she has been staying with her mother since six months prior to the F.I.R.

6. The statements of the witnesses namely mother-Sashikala, aunt-Asha, father-Subhash are *ex facie* nothing but a replica of the statement made in the F.I.R. and consequently are equally vague and omnibus qua the applicants.

7. Taking stock of catena of judgments of the Supreme Court in the matter of **Taramani Parakh (supra)** it was observed in paragraph No. 14 as under :

“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 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”

8. It is to be noted that in the earlier paragraph No. 13, the contents of the F.I.R. were reproduced which read thus :

*“13. In the present case, the complaint is as follows :
“Sir, it is submitted that I was married on 18-11-2009*

with Sidharath Prakash s/o Manak Chand Parakh r/o Sarafa Bazar in front of Radha Krishna Market, Gwalior according to the Hindu rites and customs. In the marriage my father had given gold and silver ornaments, cash amount and household goods according to his capacity. After the marriage when I went to my matrimonial home, I was treated nicely by the members of the family. When on the second occasion I went to my matrimonial home, my husband, father-in-law and mother-in-law started harassing me for not bringing the dowry and started saying that I should bring from my father 25-30 tolas of gold and Rs. 2,00,000 in cash and only then they would keep me in the house otherwise not. On account of this my husband also used to beat me and my father in law and my mother in law used to torture me by giving the taunts. In this connection I used to tell my father Kundanmal Oswal, my mother Smt. Prem Lata Oswal, uncle Ashok Rai Sharma and uncle Ved Prakash Mishra from time to time. On 2-4-2010 the members of the family of my matrimonial home forcibly send me to the house of my parents in Ganj Basoda along with my brother Deepak. They snatched my clothes and ornaments and kept with them. Since then till today my husband has been harassing me on the telephone and has not come to take me back. Being compelled, I have been moving this application before you. Sir, it is prayed that action be taken against husband Sidharth Parakh, my father-in-law Manak Chand Parakh and my mother-in-law Smt. Indira Parakh for torturing me on account of demanding dowry.”

9. A bare look at the contents of the F.I.R. in the matter before the Supreme Court and the one in hand would clearly demonstrate that the observations of the Supreme Court in paragraph No. 14 cannot be pressed into service in the matter in hand. There was statement regarding demand of money and subjugation of wife to cruelty by the parents in law to compel her to meet the demands. In the matter in hand, as is mentioned herein above the alleged cruelty is not attributed to any such demand for money or some other reason or cause.

10. The respondent No. 2 had put in a long 12 years of marital life before

lodging the F.I.R. In spite of such long cohabitation, neither the F.I.R. nor the statements of her parents reveal any discord at some earlier point of time much less pointing to some cruel treatment to her at the hands of the applicants. If such is the case, in our considered view, the prosecution cannot derive any benefit from the decision in the matter of **Taramani Parakh (supra)**. Rather, the case, according to us would be squarely covered by the observations in the matters of **Geeta Mehrotra Vs. State of U.P; (2012) 10 SCC 741, Neelu Chopra Vs. Bharti; (2009) 10 SCC 184** etc. Following the principles in the matter of **Bhajanlal (supra)**, we allow the application and quash and set aside the F.I.R. in Crime No. 284/2021, registered with Kotwali Police Station Ahmednagar Dist. Ahmednagar and the criminal case registered against the applicants.

10. Mrs. Bhosale learned advocate is appointed to represent the respondent No. 2 and we quantify her fees at Rs. 3000/- (Rs. Three Thousand only) to be paid through the Legal Aid Services Authorities.

(ABHAY S. WAGHWASE J.)

(MANGESH S. PATIL, J.)

mkd/-