

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

947 CRIMINAL APPLICATION NO.2136 OF 2021

SUNITA W/O. SURESH DALAVE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants:

Mr. Randive Sachin S. and Mr. Yashwant V. Deshmukh

APP for Respondent No.1: Mr. A. V. Deshmukh

Advocate for Respondent No.2 (*Appointed*) :

Ms. P. J. Bharad

...

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

DATE: 17th JUNE, 2022

PER COURT:

1. The applicants are seeking quashing of C.R. No.380 of 2021 registered at Partur Police Station, District Jalna which has resulted in Regular Criminal Case No.267 of 2021 pending before the learned Judicial Magistrate First Class, Partur under Section 498-A, 323, 504, 506 and 34 of the Indian Penal Code and under Section 3 and 4 of Dowry Prohibition Act, 1961.

2. Heard learned Counsel for respective parties.

3. The F.I.R. is lodged by Respondent No.2 on 20.08.2021. She has stated in her F.I.R. that she got married with her husband Kishor on 21.07.2017. During Marriage, Respondent No.2's family paid Rs.7,00,000/- by way of dowry and other articles worth Rs.4,00,000/-. In all, Rs.14,00,000/- were spent. In November 2018 the couple was blessed with a son. It is her case that, after marriage, she was treated properly for 8 to 10 days. Thereafter, she was harassed. On 25.04.2018, she came to her parental house and then she was residing with them. After that, an attempt was made for reconcilliation in a meeting between her parents' family and the husband's family; but there was no compromise. She waited for a long time and then lodged the F.I.R. on 20.08.2021. In her F.I.R., there is a general statement that the husband and all the applicants had caused physical and mental harassment. She was beaten and abused and was threatened with dire consequences. Demand of Rs.10,00,000/- was made to purchase a house. She was not taken to her

matrimonial house. On these allegations, F.I.R. is lodged.

4. Applicant No.1 is the mother, Applicant Nos.2 and 3 are the brothers, applicant No.4 is aunt, Applicant Nos.5, 6 and 7 are cousins, Applicant Nos.8 and 9 are paternal uncles and Applicant No.10 is maternal uncle of Kishor.

5. Learned Counsel for the applicants submitted that there are no specific allegations against any of the applicants. The informant and Kishor were residing separately in Mumbai and the applicants could not have caused harassment. The F.I.R. itself shows that the allegations are vague. It is a case of over implication to seek revenge against the husband. He submitted that, it is clearly an abuse of process of law and, therefore, entire proceedings need to be quashed.

6. Learned APP opposed this application based on the charge-sheet.

7. Learned Counsel for Respondent No.2 submitted that the F.I.R. and other statements and the charge-sheet shows that whenever these applicants used to visit Respondent No.2 and her husband's house; they used to demand money and used to cause harassment. Statements of witnesses are enough to attract the provisions of Section 498-A of the IPC as well as dowry Prohibition Act, 1961.

8. We have considered these submissions. Apart from Respondent No.2 there are statements of other witnesses as follows- (i) Bhaskar is father of Respondent No.2, (ii) Rukhminibai is the mother of Respondent No.2 , (iii) Prasad is the brother of Respondent No.2. Their statements are similar. The allegations made by them are exactly similar to those made in the F.I.R.

9. As rightly submitted by learned Counsel for the applicants, the allegations against all the applicants are quite vague. There are no specific instances mentioned. There are no

specific allegations mentioned against any of the applicants. Most of the applicants are distant relatives. None of the applicants was residing with Respondent No.2 or her husband. The main allegations of harassment are specifically directed against the husband. The statements of the witnesses who are named above have stated that, whenever the applicants used to visit Respondent No.2's and her husband's house; they used to cause harassment for demand of money. On one occasion when Respondent No.2 and her husband had gone to Watur, there also she was harassed on the same ground. All these allegations are not only vague but they demonstrate that all the applicants are unnecessarily dragged in the case. The F.I.R. itself shows that she was residing at her parents' house since 25.04.2018 and the F.I.R. is lodged on 20.08.2021. The F.I.R. is lodged after more than 3 years from 25.04.2018.

10. The Hon'ble Supreme Court in the case of Geeta Mehrotra and another Vs. State of Uttar Pradesh and another reported in (2012) 10 SCC 741,

has considered the case of over implication of the relatives of the husband. In the context of the present case, it is necessary to refer to that Judgment. The Hon'ble Supreme Court considered the case of the informant's brother-in-law, sister-in-law (husbands brother and sister). The allegation against the family members of the husband in that case was that, on instigation of those family members, the husband started beating the informant in that case. All these relatives of the husband used to torture the first informant in that case mentally and physically. The brother-in-law provoked the other family members to torture the informant. These allegations were considered by the Hon'ble Supreme Court and it was observed in paragraph no.20 that there were no allegations against those family members except casual reference of their names which were included in the F.I.R. But mere causal reference of the names of the family members in the matrimonial dispute without allegations of active involvement in the matter would not justify taking cognizance against

them overlooking the fact that there is a tendency to involve entire family of the husband. It was observed in paragraph no.25 that if the F.I.R. does not disclose specific allegations against the accused specially in the matter arising out of matrimonial bickering, it would be clear abuse of the legal and judicial process to mechanically send the named accused in the F.I.R. to undergo trial. On the basis of these observations, the proceedings initiated against the brother and sister of the informant's husband were quashed.

11. The same principles will apply in the present case as well. There are no specific allegations against any of the applicants. They were residing separately. Only vague allegations are made that whenever they used to go to Respondent No.2 and Kishor's house, she was harassed. The allegations are definitely vague and continuation of proceedings against all these near and distant family members of the husband would amount to abuse of process of law. They cannot be made to face the trial on the basis of these

allegations. Therefore, this is a fit case where the proceedings can be quashed. Hence, the following order-

ORDER

[I] The application is allowed in terms of prayer clauses "B" and "BB".

[II] The C.R. No.380 of 2021 registered at Partur Police Station, District Jalna and the consequential proceedings i.e. Regular Criminal Case No.267 of 2021 pending with the Judicial Magistrate First Class, Partur are quashed and set aside as far as the present applicants are concerned.

[III] The High Court Legal Services Sub-Committee, Aurangabad shall pay the fees of the appointed Counsel to represent the cause of Respondent No.2 as per Rules.

12. Criminal Application is disposed of.

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