

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2230 OF 2021

UMA W/O. ASHISH PATIL AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. Mahesh P. Kale
APP for Respondent No.1/State : Mr. K. S. Patil
Advocate for Respondent No.2 : Mr. A. C. Darandale

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

DATE : 14th JULY 2022.

Per Court :

1. This is an application for quashing of the proceedings vide R.C.C. No. 289/2021 pending before the Judicial Magistrate First Class, Omerga, District Osmanabad arising out of CR No. 462/2021 registered at Omerga Police Station, for the offences punishable under Sections 498-A, 323, 504, 506 and 34 of the Indian Penal Code (I.P.C. for short).
2. Heard learned Counsel for the parties.

3. The FIR is lodged by the Respondent No.2. She is married to her husband Abhijit. The Applicant No.1 is a married sister of Abhijit and the Applicant No.2 is husband of Applicant No.1. Both of them are residing at Pune. Applicant No.3 is another married sister of Abhijit and Applicant No. 4 is her husband. Both of them are residing at Navi Mumbai, District Raigad. The Informant in her FIR stated that she got married with Abhijit on 01.07.2018. During marriage, her parents spent for expenses and gold ornaments. It is her case that all the Applicants, her husband and father-in-law and mother-in-law treated her well initially for three months. After that, the husband, father-in-law and mother-in-law forced her to leave her job at Mumbai. She was residing in her matrimonial house. At that time, all the Accused started harassing her mentally and physically. There are allegations that, all the Accused told her to bring Rs.10 Lakhs from her parents and they were threatening to file proceedings for divorce. The Informants' parents were unable to make the payment. She started working in Pune in December, 2018. It is her case that on 30.06.2020, her mother-in-law poured boiling oil on her left wrist. There are general allegations that all the Accused including the present Applicants used to

abuse and beat her with kick and fist blows. On 01.07.2020, she was thrown out of her house by all the Accused. Thereafter, she went to Omerga and started residing with her parents. Since those were the days of lockdown, she was working from home and she did not go to Pune because she was scared of the Accused. Thereafter, she lodged the FIR.

4. Learned Counsel for the Applicants submitted that these Applicants were not residing in the matrimonial house of the Informant. They were residing at other places and there was no possibility that they could have harassed her. The Applicants are falsely implicated to pressurize the husband and his family. This is sheer abuse of process of law and therefore the proceedings need to be quashed and set aside.

5. Learned APP as well as learned Counsel for the Respondent No. 2 strongly opposed this application. They relied on the supplementary statement of the Informant recorded on 05.08.2021 and other statements of other witnesses.

6. We have perused these statements and we have considered the submissions of all the learned Counsel. Besides the first Informant, there are statements of parents of the First Informant, her uncle Netaji, a family friend Satish and her own friend Chetna. All of them have reiterated the allegations in the FIR. As was observed earlier, all the Applicants were residing elsewhere. The Applicants No. 3 and 4 infact were residing at Navi Mumbai. The first two Applicants were also residing separately in Pune. Admittedly they were not residing in the same house therefore the allegations that they were continuously harassing her do not appear to be true, specially during lockdown when there were strict restrictions for resisting relatives and friends.

7. In this context, a reference can be made to the judgment of the Hon'ble Supreme Court in the case of **Geeta Mehrotra and Another Vs. State of Uttar Pradesh and Another**, as reported in (2012) 10 SCC 741. In that case, the efforts was made by the Informant therein of booking the sister-in-law and brother-in-law by making general allegations. In that case, the allegations were that the sister-in-law tortured the Informant every day mentally and physically. Similarly, the brother-in-

law often provoked the other family members to torture and often used to make the Informant feel sad by making inappropriate remarks about the Informant and her parents. The Hon'ble Supreme Court had observed that there were no specific allegations against sister-in-law – Geeta Mehrotra and brother-in-law Ramji Mehrotra except casual reference of their names which had been included in the FIR. It was observed that mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specially if it happens soon after the wedding.

8. In the present case also there are no specific allegations about the specific instances against the present Applicants. As far as the incident dated 30.06.2020 is concerned, it was specifically restricted to the mother-in-law regarding the allegations of pouring boiling oil on the Informant's wrist. There are only general allegations that she was

harassed on the demand of money. As mentioned earlier that the Applicants were staying at different places and it appears to be a case of over implication. In this view of the matter, the proceedings against the Applicants would amount to abuse of process of law. The proceedings need to be quashed. Hence the following order.

ORDER

- (i) The Criminal Application is allowed in terms of prayer clause 'C-1'.
- (ii) The proceedings vide R.C.C. No. 289/2021 pending before the Judicial Magistrate First Class, Omerga, District Osmanabad arising out of CR No. 462/2021 registered at Omerga Police Station District Osmanabad, are quashed and set aside qua the present Applicants only.
- (iii) The Criminal Application is disposed of.

[BHARAT P. DESHPANDE, J.]

[SARANG V. KOTWAL, J.]

Najeeb...