

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

CRIMINAL APPLICATION NO. 2328 OF 2021

1. Sangram s/o Raosaheb Suryawanshi,
Age : 31 years, Occu. : Service,
2. Minakshi w/o Raosaheb Suryawanshi,
Age : 60 years, Occu. Household,
3. Sandip s/o Raosaheb Suryawanshi,
Age : 36 years, Occu : Service,
4. Shrikant s/o Sambhaji Jadhav,
Age : 52 years, Occu. Service,
5. Vrushali w/o Shrikant Jadhav,
Age : 40 years, Occu. Household ,

Both No. 4 and 5, R/o. Pratibhanagar,
Dhankawadi, Pune, Dist. Pune.

Applicants..

[Orig. Accused Nos. 1, 3-6]

Versus

1. The State of Maharashtra
2. Dipali w/o Sangram Suryawanshi,
Age : 31 years, Occu. Govt. Service,
C/o. Gorakshanath s/o Anandrao Darekar,
R/o. Bolhegaon, Tq. & Dist. Ahmednagar.

...Respondents

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Mr. D. R. Jayabhar h/f Mr. R. O. Chavan, Advocate for the
Applicants

Mr. R. V. Dasalkar, APP for respondent/State

Mr. M. G. Kolse Patil, Advocate for respondent no. 2

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**CORAM : SMT. VIBHA KANKANWADI
AND
RAJESH S. PATIL, JJ.**

DATE : AUGUST 19, 2022

ORAL JUDGMENT [PER RAJESH S. PATIL, J.] : -

1. By the present application filed under Section 482 of the Code of Criminal Procedure, the applicants who are original Accused persons are praying for quashing of the First Information Report bearing No. 483/2020 dated 12.07.2020 registered with Karjat Police Station, Ahmednagar, for the offences punishable under Sections 420, 498A, 323, 504 and 506 of the Indian Penal Code which culminated into R.C.C. No. 446 of 2020, which is pending before the Judicial Magistrate First Class, Karjat, Ahmednagar.

FACTS : -

2. It is the case of respondent no. 2 (wife) in the FIR that the wedding of respondent no. 2 with applicant no. 1 (husband) was solemnized on 04.12.2017, as per Hindu rites and rituals, at Madhukamal Mangal Karyalaya, Tq. Karjat, Dist. Ahmednagar. In the marriage ceremony, all the relatives were given proper respect and the household articles required were gifted to respondent no. 2 by her parents. It is further stated in the FIR that, at the time of settlement of marriage, applicant no. 1 had told respondent no.2/informant that he serves in the capacity of Manager in a sgp

Company at Ranjangaon and draws salary of Rs. 1,00,000/- and further he has flat for residing there. Relying on his statement, father of respondent no. 2/ informant fixed the marriage of respondent no.2 with applicant no. 1. It is further stated in the FIR that, after the marriage, when enquired about the job of applicant no. 1, it was revealed that neither the applicant was working as a Manager in any of the Company nor he had flat for residing there.

3. It is further stated in the FIR that, after the marriage, she went for cohabitation at her matrimonial home at Karjat. The matrimonial family was consisting of her husband, father-in-law, mother-in-law and brother-in-law. While cohabiting in a joint family, the applicant no. 1, at the instance of father-in-law, mother-in-law and brother-in-law, used to ill-treat respondent no. 2. All these family members were harassing respondent no. 2 by keeping her starving. They used to demand from her Rs. 5.00 lakhs for purchasing house.

4. It is further stated in the FIR that, due to non-fulfillment of the said demand, the applicants and her father-in-law had beaten her and drove her out of the house for four to five times. At that time, her maternal uncle and father had convinced the applicant nos. 1 and 2 and father-in-law and dropped her at matrimonial home for cohabitation. While cohabiting, applicant no. 4 – brother-in-law and applicant no. 5 – sister-in-law used to backbite applicant no. 1 about respondent no.

2 and thereby harassed her. It is further case of respondent no. 2 in the FIR that, applicant no. 1, at the instance of applicant no. 2 – mother-in-law and father-in-law, used to demand from time to time Rs. 5.00 lakhs from her, and thereupon brother of respondent no. 2 had transferred Rs. 35,000/- online in the account of applicant no. 1, only with a view to keep harmony in the marital life of respondent no. 2. Even after fulfilling the part demand of money, the applicants and the father-in-law kept her harassing and on 16.10.2018, applicant no. 1 said respondent no. 2 that since she has been unable to fulfill the demand of money, she should leave him as he wanted to perform the second marriage. When she denied to do so, the applicants including her father-in-law beat her, abused, drove her out of the house and threatened of life. She then came to live at Bolhegaon, Tq. & Dist. Ahmednagar and narrated the entire incident to her parents.

5. It is further stated in the FIR that, thereafter she herself and with the intervention of her relatives, tried to go back to her matrimonial home but the applicants refused to let her cohabit. On the other hand, the applicants had abused her in foul language. She had hope that she will be taken back to her matrimonial home and even she waited for long time but in vain, and only because of this reason, there has been delay in lodging the complaint. Eventually, she filed complaint with Karjat Police Station against all the applicants including her father-in-law, who died during the pendency of the present proceedings, for the offences referred to above, which culminated into R.C.C. No. 446

of 2020, which is pending before the Judicial Magistrate First Class, Karjat, Ahmednagar.

6. The applicants have stated in the present application that the applicant nos. 1 and 2 (mother-in-law of Respondent No. 2) were residing separately from respondent no. 2, as applicant no. 1 was serving in a company in M.I.D.C. and respondent no. 2 works as Assistant Technical Manger in Agriculture Department of Government of Maharashtra. The Applicants have been falsely roped in the offence in question. It is further stated in the application that the respondent no. 2 has made a false allegation against the applicants that they had demanded Rs. 5.00 lakhs from the respondent no. 2 for purchasing the house and it is impossible to purchase new house in as low as an amount of Rs. 5.00 lakhs. The said allegation is false in toto.

7. It is further case of the applicants in the application that, the respondent no. 2 is working as Assistant Technical Manager in Agricultural Department and, therefore, she is a highly qualified lady having enough prudence and therefore the allegation of cheating is not sustainable. It is further stated in the application that the respondent no. 2 had left the matrimonial home on her own accord and all efforts made by applicant no. 1 to bring her back to the matrimonial home, were futile. The criminal case is lodged by respondent no. 2 only with an intention to harass the family of applicant no. 1 as same can be seen from the FIR wherein the applicants including the father-in-law have been

arrayed as accused. The FIR is lodged against the entire family including the sister-in-law who is married and residing at Pune at her matrimonial house having no concern with the respondent no. 2 and therefore the proceeding initiated needs to be quashed and set aside as continuation of the same would be an abuse of process of law as the FIR itself was lodged afterthought and with an ulterior motive and to harass the entire family. Therefore, the FIR and the subsequent proceedings be quashed and set aside.

8. During the pendency of the present application, the charge-sheet was filed before the learned Judicial Magistrate First Class, Aurangabad; and the same was culminated into R.C.C. No. 446/2020.

SUBMISSIONS: -

9. Heard learned advocate Mr. D. R. Jayabhar h/f Mr. R. O. Chavan for the Applicants, learned APP Mr. R. V. Dasalkar for respondent no. 1/State and learned advocate Mr. M. G. Kolse Patil, for respondent no. 2.

10. Learned counsel for the applicants submitted that the applicants are innocent. They have been falsely implicated in the offence in question. The allegations made against them are false, vague and general in nature. There is inordinate delay in lodging the FIR. Though the applicant nos. 4 and 5 live at a difference place (Pune) than the place where the incidents occurred, they

have been unnecessarily roped in the offence in question and they are not at all concerned with the same.

11. Learned counsel for the applicants further submitted that even the applicants no. 1 and 2 used to live separately from respondent no. 2 as the applicant no. 1 and respondent no. 2 do job at different places and applicant nos. 1 and 2 had not shared common shelter with respondent no. 2 at any point of time and they have been sued in the offence in question falsely and with an ulterior motive. He further submitted that the applicant no. 3 being brother-in-law of respondent no. 2, has no concern with the matrimonial life of respondent no. 2 and applicant nos. 4 and 5 being brother-in-law and sister-in-law and residing separately at Pune, also have no concern with the marital life of respondent no. 2 and applicant no. 1. They have been falsely sued in the offence.

12. Learned counsel for the applicants further submitted that, the allegations made even if are taken at their face value and accepted in their entirety, do not *prima facie* constitute any offence or make out a case against the applicants. Complaint is instituted with an ulterior motive for wreaking vengeance on the applicants and with a view to spite them due to private and personal grudge. The delay caused in registering the complaint is unexplained which washes out its credibility and hence he seeks quashing of the FIR and the subsequent proceedings against the applicants.

13. After hearing the parties, when this Court showed disinclination to grant relief in favour of applicant nos. 1 and 2 i.e.

husband and mother-in-law of respondent no. 2, the learned counsel for the applicants, on instructions, sought to withdraw the application to their extent. Leave granted. The Application stands disposed of as withdrawn so far as applicant nos. 1 and 2. Now, therefore, the application is considered only to the extent of applicant nos. 3 to 5.

14. Learned counsel for the applicants further stated that Applicant Nos. 4 to 5 are staying at Pune, whereas the matrimonial home of respondent No. 2 is at Karjat. The applicant no. 3 is the brother-in-law of respondent no. 2 and he has nothing to do with the marital life of respondent no. 2. Hence, no case is made out by respondent no. 2, in her complaint against Applicant Nos. 3 to 5, therefore, the Criminal Application be allowed to the extent of Applicant Nos. 3 to 5.

15. Learned APP – Mr. R. V. Dasalkar and learned counsel Mr. M. G. Kolse Patil for respondent no. 2 submitted that specific allegations have been made against all the applicants, hence there is no question of quashing of FIR and R.C.C. against Applicant Nos. 3 to 5.

ANALYSIS : -

16. For quashing the criminal proceedings under Section 482 of the Cr.P.C. we have to see, whether the allegations in the complaint and F.I.R. *prima facie* establish the ingredients of the

offence alleged. We are of the view that under Section 482 of the Cr.P.C., we have inherent powers to make such orders as may be necessary to prevent abuse of the process of any law to secure the ends of justice.

17. The First Information Report has been lodged by the respondent no. 2. In the said report, respondent no. 2 has specifically stated that after the marriage, respondent no. 2 along with applicant nos. 1, 2, 3 and father-in-law were residing together. Applicant no. 1 used to harass her at the instance of father-in-law, mother-in-law, brother-in-law and keep her starved. She has further stated that, an unlawful demand of Rs. 5.00 lakhs was also made and on the said count, she was ill-treated, harassed, beaten up and driven out of the house by the applicants. Since then she has been staying with her parents. She had taken efforts to resume cohabitation but in vain.

18. Perusal of the FIR shows that the allegations in respect of the ill-treatment, harassment and illegal monetary demand have been vaguely made against the applicants. Perusal of the FIR shows that the applicant no. 3 is brother-in-law and applicant nos. 4 and 5 are the brother-in-law and sister-in-law and they reside at Pune, which is far away from the matrimonial home of respondent no. 2. No specific allegation is attributed to any of these applicants i.e. applicant nos. 3 to 5 and the allegations levelled are omnibus and general in nature.

19. We have in our recently decided Criminal Application No.2230/2020 [Narayan s/o Eknath Devkar and others Vs. State of Maharashtra and others, decided on 25.07.2022], after considering the various judgments in paragraph nos. 22 to 27, held that continuation of prosecution against far off relatives would amount to abuse of process of law.

20. The Apex Court in **Geeta Mehrotra Vs. State of U.P.**, reported in AIR 2013 SC 181 stated “It can thus be seen that mere reference to family members without any specific allegations against them would not justify taking cognizance against them. There is a tendency to involve the entire family members in a matrimonial dispute.

21. This Court in **Shaikh Mushrraf Pasha and others Vs. State of Maharashtra and another**, reported in 2021 (2) AVR (Cri.) 343, has observed that continuance of prosecution against relative of husband is nothing but abuse of process of law.

22. Thus, we are of the considered view that the respondent No.2 only with an intention to harass the applicant No.1 and his family members, has filed the complaint with an ulterior motive, also against far off relatives i.e. respondent Nos. 3 to 5. Continuation of prosecution against Applicant Nos. 3 to 5, who are far off relatives and reside separately, in our opinion, would amount to abuse of process of law.

23. Taking into consideration the ratio laid down in the cases of Gian Singh and Geeta Mehrotra (supra), we are of the considered view that so far as applicant nos. 3 to 5 are concerned, there are no specific allegations against them and only with a view to harass them they have been arrayed as an accused in the FIR. Therefore, in our view, this is a fit case wherein we should exercise our discretion under Section 482 of the Code of Criminal Procedure to quash the FIR and RCC as against the applicant nos. 3 to 5.

ORDER

1. Criminal Application is partly allowed.
2. Criminal Application stands disposed of as withdrawn insofar as applicant nos. 1 and 2 are concerned.
3. Criminal Application to the extent of applicant nos. 3 to 5 stands allowed in terms of prayer clause 'C' and 'D' of the application.
4. The Criminal Application stands disposed of accordingly.

[RAJESH S. PATIL]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE