

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

965 CRIMINAL APPLICATION NO.2396 OF 2020

PRASHANT TRIMBAKRAO HELGIRE AND ANR
VERSUS
THE STATE OF MAHARASHTRA AND ANR

.....
Advocate for Applicants : Mr. Umakant B. Deshmukh
APP for Respondent-State: Mr. M. M. Nerlikar
Advocate for Respondent No.2 : Mr. V. V. Bhavthankar
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**CORAM : V. K. JADHAV AND
SANDIPKUMAR, C. MORE, JJ.
DATED : 16th MARCH, 2022**

PER COURT:-

1. By consent of the parties, heard finally at admission.
2. The applicants-accused are seeking quashing of F.I.R. bearing No.450 of 2020 registered with Shivajinagar Police Station, Nanded for the offences punishable under Section 498A, 323, 506 r.w. 34 of I.P.C. and also seeking quashing of the proceeding vide R.C.C. No. 154 of 2021 pending before the J.M.F.C. Nanded.
3. Learned counsel for the applicants submits that the applicant No.1 is brother-in-law of respondent No.2 and applicant No.2 is the wife of applicant No.1. Though their names are mentioned in the F.I.R., however, the allegations as against them are general and absurd in nature. Learned counsel submits that the allegations have been made mainly against husband, mother-in-law and father-in-law

and the present applicants have been implicated in connection with the crime only for the reason that they are members of the family. It's a case of over implication.

4. Learned counsel for respondent No.2 submits that the respondent No.2 got married with co-accused husband in the year 2003. Right from the date of marriage till the year 2019, she was subjected to ill-treatment on account of non fulfillment of certain demands. Learned counsel submits that the allegations have been made against the applicants and co-accused persons. The respondent No.2 was subjected to ill-treatment and beating on account of non fulfillment of said demand of Rs.2,00,000/-. There is no substance in this criminal application and the same is liable to be dismissed.

5. We have also heard learned A.P.P. for the respondent State.

6. We have carefully gone through the contents of the complaint and also perused the charge sheet. It appears that respondent No.2 Jyoti got married with co-accused husband way back in the year 2003. It is alleged in the complaint that she was treated well for some period, however, after the year 2005, she was subjected to ill-treatment on account of non fulfillment of demand of Rs.2,00,000/- and the said ill-treatment remained continued till the year 2019. Though we find names of the applicants mentioned in the F.I.R.

however, the allegations as against them are general in nature without quoting any specific incident, as such.

7. In the case of ***Geeta Mehrotra and others v. State of U.P. and others***, reported in AIR 2013 SC 181, the Supreme Court has observed that “the Courts are expected to adopt a cautious approach in matters of quashing specially in cases of matrimonial dispute whether the FIR in fact discloses commission of an offence by the relatives of the principal accused or the FIR prima facie discloses a case of over-implication by involving the entire family of the accused at the instance of the complainant, who is out to settle her scores arising out of the teething problem or skirmish of domestic bickering while settling down in her new matrimonial surrounding.”

8. In the case of ***Neelu Chopra and others vs. Bharti***, reported in 2010 Cr.L.J. 448, the Supreme Court has observed that, “in order to lodge a proper complaint, mere mention of the sections and the language of those sections is not be all and end of the matter. What is required to be brought to the notice of the Court is the particulars of the offence committed by each and every accused and the role played by each and every accused in committing of that offence. The complaint in the instant case is sadly vague. It does not show as to which accused has committed what offence and what is the exact role played by these appellants in the commission of offence. There could be said something against Rajesh, as the allegations are made against him

more precisely but he is no more and has already expired. Under such circumstances, it would be an abuse of process of law the prosecution to continue against the aged parents of Rajesh, the present appellants herein on the basis of vague and general complaint which is silent about the precise acts of the appellants.”

9. In the case of ***Taramani Parakh Vs. State of Madhya Pradesh and others***, reported in **(2015) 11 SCC 260**, in para 10, 14 and 15 the Supreme Court has made the following observations:-

“10. The law relating to quashing is well settled. If the allegations are absurd or do not made out any case or if it can be held that there is abuse of process of law, the proceedings can be quashed but if there is a triable case the Court does not go into reliability or otherwise of the version or the counter version. In matrimonial cases, the Courts have to be cautious when omnibus allegations are made particularly against relatives who are not generally concerned with the affairs of the couple. We may refer to the decisions of this Court dealing with the issue.

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 No.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.

15. The decisions referred to in the judgment of the High Court are distinguishable. In Neelu Chopra, the parents of the husband were too old. The husband Rajesh had died and main allegations were only against him. This Court found no cogent material against other accused. In Manoj Mahavir, the appellant before this Court was the brother of the daughter-in-law of the accused who lodged the case against the accused for theft of jewellery during pendency of earlier Section 498A case. This Court found the said case to be absurd. In Geeta Mehrotra, case was against brother and sister of the husband. Divorce had taken place between the parties. The said cases neither purport to nor can be read as laying down any inflexible rule beyond the principles of quashing which have been mentioned above and applied to the facts of the cases therein which are distinguishable. In the present case the factual matrix is different from the said cases. Applying the settled principles, it cannot be held that there is no triable case against the accused.”

10. It is thus clear that if the allegations are absurd and do not make out any case the proceedings are liable to be quashed. In the instant case, even if the allegations as against these applicants are held to be proved, no case is made out against them. In view of the same, the continuation of the proceedings as against these applicants would be an abuse of process of law.

11. In view of above and in terms of ratio laid down by the Supreme Court in the above cited cases, we proceed to pass the following order:-

O R D E R

- I) Criminal application is allowed in terms of prayer clause “B” and “B-1”.
- II) Criminal application is disposed of accordingly.

(SANDIPKUMAR. C. MORE, J.)

(V. K. JADHAV, J.)

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