

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

975 CRIMINAL APPLICATION NO.2660 OF 2021

1. Sayyad Nuruddin Sayyad Taheroddin
(withdrawn)
2. Shahajan Begum Sayyed Taheroddin
3. Sayyad Jubairoddin Sayyad Taheroddin
4. Abdul Wahid Karimoddin Applicants

Versus

1. The State of Maharashtra
2. Ikra Anjum Sayyad Nuruddin Respondents

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Mr. Suresh P. Salgar, Advocate for the applicants.

Mr. K.S. Patil, A.P.P. for respondent No. 1.

Mr. S.N. Deshmukh, Advocate for respondent No.2.

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**CORAM : V.K. JADHAV AND
SANDIPKUMAR C. MORE, JJ.**

DATE : 30-03-2022.

P.C. :

1. Heard finally with consent at the admission stage.
2. The applicants / original accused are seeking quashing of F.I.R. bearing Crime No. 134/2021 registered with Ambad Police Station, Taluka Ambad, District Jalna for the offences punishable under Sections 498-A, 323, 504 read with Section 34 of the Indian Penal Code and consequential

proceedings bearing R.C.C. No. 442 of 2021 pending before the learned Judicial Magistrate, First Class, Ambad, District Jalgaon.

3. Learned Counsel for the applicants submits that though the names of the applicants are mentioned in the F.I.R., the allegations as against them are general in nature. Learned Counsel submits that the allegations have been made mainly against co-accused husband whose application seeking quashing of the proceedings came to be withdrawn. Learned Counsel for the applicants submits that applicant No.2 is aged mother-in-law and applicant No.3 is brother-in-law of respondent No. 2. There are no allegations against applicant No.4, who is uncle-in-law of respondent No.2. Learned Counsel submits that it is a case of over-implication in connection with the present crime.

4. Learned Counsel for respondent No.2 submits that names of the applicants are mentioned in the F.I.R. with specific allegations against each of them. Learned Counsel submits that after marriage in the year 2018, respondent No.2 was treated well for a period of six months only and thereafter subjected to ill-treatment for various reasons by the

applicants and co-accused husband. Learned Counsel submits that co-accused husband is in temporary employment and thus the applicants and co-accused husband have demanded Rs. 5,00,000/- for the purpose of his permanent job. Even respondent No. 2 was driven out from the house on account of non-fulfillment of the said demand. Learned Counsel submits that there is triable case against the applicants. 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 complaint and also perused the charge-sheet. 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 ascribing them the individual roles. It appears that respondent No. 2 has impleaded all the family members in connection with the present crime and even the distant relative like applicant No.4 is also not spared. There are no allegations at all against applicant No.4, who is the uncle-in-law of respondent No. 2. Further, the allegations

about demand, ill-treatment and driving out of the house are mainly against the husband whose application seeking quashing of the proceedings came to be withdrawn.

7. In the case of ***Gita Mehrotra and others v. State of U.P. and others***, reported in AIR 2013 SC 181, the Supreme Court has observed that “*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 v. Bharti***, reported in 2010 CrLJ 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 to allow 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 v. State of Madhya Pradesh and others***, reported in (2015) 11 SCC 260, in para 10 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 make 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 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 v. Bharti**, (2009) 10 SCC 184, 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 the other accused. In **Manoj Mahavir Prasad Khaitan v. Ram Gopal Poddar**, (2010) 10 SCC 673 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 498-A IPC case. This Court found the said to be absurd. In **Geeta Mehrotra v. State of U.P. (2012) 10 SCC 741**, 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. In the instant case, the allegations as against the applicants are general and absurd in nature. Even if those allegations are held to be proved, no case is made out against them. In view of the same, continuation of the proceedings as against the applicants would be abuse of the process of Court.

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

ORDER

- (i) Criminal Application is hereby allowed to the extent of the applicants before us, in terms of prayer clause [B].
- (ii) Criminal Application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)**(V.K. JADHAV, J.)**