

IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH
AT AURANGABAD

54 CRIMINAL APPLICATION NO. 2866 OF 2021

1. Ishwar Kitkul Ingale
 2. Dinkar Kitkul Ingale
- Versus
1. State of Maharashtra
 2. Bharati Mukesh Birhade

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Mr. Patil Atmaram J., Advocate for the Applicants.

Mr. K. S. Patil APP for Respondent No.1 -State.

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CORAM : SARANG V. KOTWAL
BHARAT P. DESHPANDE, JJ.
DATED : 20 JUNE 2022

PER COURT:-

1. This is an application for quashing of the FIR registered vide C.R. No. 291/2021 at Raver Police Station and consequent charge-sheet and other proceedings pending vide R.C.C. No. 353/2021 before the Court of Judicial Magistrate, First Class, Raver. The offences alleged against the applicants are under Sections 498-A, 323, 504, 506 r/w 34 of IPC.
2. We have considered this application only in respect of the applicants herein.

3. Heard Mr. A. J. Patil, learned counsel for the applicants as well as Mr. K. S. Patil, learned APP for the respondent State.

4. Though respondent no.2-the original first informant was served, nobody appears for her. Therefore, we are deciding this matter with assistance of learned counsel for the applicants as well as learned APP.

5. The FIR is lodged by the first informant on 25.08.2021. She has stated that she got married with Mukesh Birhade on 09.03.2006. At the time of marriage, her parents gave Rs.50,000/- in cash, golden ornaments and *stridhan*. She started residing in her matrimonial house with her husband Mukesh, mother-in-law Yashoda and father-in-law Ramesh. Her husband was the only son to his parents. Mukesh's cousin Vaishali was residing in the neighbourhood and she used to visit the informant's matrimonial house regularly. The FIR mentions that she was treated properly for about two years. On 27.06.2008, the couple was blessed with a son. After that, the mother-in-law Yashoda started quarreling with her on petty issues. She used to express her displeasure in respect of lesser expenses spent by the informant's parents. Husband Mukesh started doubting her character and on that ground, used to

assault her. It is mentioned in the FIR that he used to demand Rs.50,000/- for constructing a house. In 2009, she delivered her second son. But there was no change in the situation. The FIR goes on to mention that the informant came across some messages in the mobile phone of her husband indicating that he was having some relationship with another lady. The FIR mentions that on 26.07.2020, she was driven out of her house. She had given a complaint to Jalgaon Taluka Police Station against her husband and mother-in-law and then she started residing at Raver with her mother. The vigilance committee interrogated the husband and mother-in-law but they did not budge. As far as the present applicants are concerned, they are brothers of mother-in-law Yashoda. The allegations against them are that in December 2020 when her younger son's birthday was being celebrated in the matrimonial house, both these applicants told the husband and mother-in-law of the informant that she should not be permitted to cohabit. It is the case that because of this, the mother-in-law, sister-in-law and sister-in-law's son used to harass the informant. The allegations are repeated against the husband. The FIR mentions that in August 2021, an attempt was made to initiate discussion after death of the informant's father-in-law. There are allegations that, along with others,

even the applicants abused the informant's relatives. It is alleged that the husband threatened her. She has further mentioned that she had approached the Court with a civil suit and then she has lodged this FIR.

6. Learned counsel for the applicants submitted that they are distant relatives of the husband. They were not residing together with the informant and her husband. There are vague and general allegations against them. The role attributed to them would not attract the provisions of Section 498-A and other Sections of IPC.

7. Learned APP relied on the averments in the FIR as well as on the charge-sheet to oppose this application.

8. We have considered these submissions and we have also perused the charge-sheet. The Charge-sheet contains statements of informant's relatives. They are Sanjay Wagh-uncle of the informant, Kamalbai Wagh-aunt of the informant and Kokilabai Lahase-mother of the informant. Their statements are similar to the FIR. As rightly submitted by learned counsel for the applicants, the applicants were not staying with the informant and her husband in the matrimonial house. They are distant relatives. The FIR itself shows that they were residents of

Shahapur, District Burhanpur. There are only two vague allegations against them. The first allegation is in respect of some incident dated 11.12.2020. During that incident, when the informant's second son's birthday was being celebrated, they had allegedly told the husband and mother-in-law of the informant that she should not be permitted to stay in the matrimonial house. The second allegation is that at the time of death of informant's father-in-law, the applicants along with others abused her relatives. Considering the entire FIR, these allegations are vague and general. It is not possible to believe that the applicants were constantly interfering in her matrimonial relationship with her husband or that they were regular visitors to the matrimonial house causing harassment. The FIR specifically is concentrated against the husband, mother-in-law, sister-in-law and the sister-in-law's son. Both the applicants are distant relatives residing elsewhere. The allegations against them are very vague. Therefore, it is obvious that they are roped in to pressurize the informant's husband. The allegations against them do not appear to be genuine or made with *bona fide* intentions. Therefore we are satisfied that it is a fit case where the proceedings against the applicants can be quashed. Hence, the following order:

ORDER

I. The application is allowed in terms of prayer clauses “b” and “bb”.

II. The FIR bearing C.R. No. 291/2021 registered with Raver Police Station and the consequent proceedings pending vide R.C.C. No. 353/2021 before the Judicial Magistrate, First Class, Raver are hereby quashed and set aside in respect of the applicants alone.

III. The application is disposed off.

BHARAT. P. DESHPANDE, J.

SARANG V. KOTWAL, J.

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