

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

CRIMINAL APPLICATION NO. 3327 OF 2019

1. Sandeep Laxman Shinde,
Age : 43 years, Occu. Service,
R/o. House No. 1117, Sector-20,
Belapurgaon, Navi Mumbai,
Thane.
2. Laxman Mohan Shinde,
Age : 69 years, Occu. Agriculture,
R/o. As above.
3. Suman Laxman Shinde,
Age : 62 years, Occu. Household,
R/o. As above.
4. Dipak Laxman Shinde,
Age : 46 years, Occu. Service,
R/o. As above.
5. Aparna Dipak Shinde,
Age : 39 years, Occu. Household,
R/o. As above.

...Applicants

Versus

1. The State of Maharashtra
2. Janhvi Sandip Shinde,
Age : Major, Occu. Household,
R/o. Kurdali, Tq. Chakur,
Dist. Latur.

...Respondents

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Mr. S. S. Bora, Advocate for the applicants

Mr. S. J. Salgare, APP for respondent no. 1/State

Ms Sheetal Salunke, Advocate (appointed) for respondent no. 2

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

DATE : SEPTEMBER 07, 2022

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

1] This application has been filed under Section 482 of Cr.P.C. for quashing the FIR vide C.R. No. 34/2019 dated 01.02.2019 registered at the instance of respondent no. 2 with Chakur Police Station, Dist. Latur, for the offences punishable under Sections 498A, 323, 504, 506 r/w 34 of the Indian Penal Code [In short 'IPC'] as well as by way of amendment, they have sought quashment of the proceedings bearing R.C.C. No. 69/2019 pending in the court of learned Judicial Magistrate First Class, Chakur, Dist. Latur.

FACTS :-

2.1] The marriage of respondent no. 2 with applicant no. 1 was solemnized on 18.07.2014 as per Hindu rites and customs at village Hali (Kh.), Tq. Chakur, Dist. Latur. They have blessed with a daughter from the said wedlock.

2.2] It is the case of respondent no. 2 in the FIR that, after the marriage of respondent no. 2 with applicant no. 1, she was treated with love and affection for a period one year. During the

said period she conceived and gave birth to a female child. The applicants thereafter started harassing respondent no. 2 on the count that as to how respondent no. 2 has given birth to a female child and further she was kept starved for a period of couple of days. Thereafter, applicants made an unlawful monetary demand of Rs. 5.00 lakhs from respondent no. 2, who, in turn, informed about the said demand to her parents. Thereafter, father of respondent no. 2 and other people from the village visited the matrimonial home of respondent no. 2 and tried to convince the applicants and further requested them to treat respondent no. 2 with love and affection. The father of respondent no. 2 and the other people told them about the poor financial condition of parents of respondent no. 2 and they being unable to fulfill the said demand of Rs. 5.00 lakhs.

2.3] It is further the case of respondent no. 2 in the FIR that on 01.08.2017, the applicants had tried to kill respondent no. 2 by setting her ablaze and, therefore, respondent no. 2 lodged report against the applicants at the N.R.I. Sagari Police Station at Thane, but, no action has been taken so far. Thereafter, again on 10.11.2018, the applicants tried to kill respondent no. 2 and drove her out of the house and further demanded Rs. 5.00 lakhs and warned to be away from the home until the monetary demand is fulfilled.

2.4] Respondent no. 2 has further stated in the FIR that, after she was driven out of the house, she started staying with her

parents. On 19.11.2018, respondent no. 2 approached the Women's Grievance Redressal Forum, Latur and presented complaint against the applicants. On 02.01.2019, said Forum had issued notice to the applicants and directed to remain present but they did not turn up before the said Forum. Thereafter, on 13.01.2019, the applicants came at parental home of respondent no. 2 at Hali (Kh.), Tq. Chakur and asked respondent no. 2 as to why she lodged report against them with Police Station and abused and beaten her and further threatened her of dire consequences. The applicants have also manhandled the parents of respondent no. 2 but, when the people living nearby heard noise of the said quarrel, they rushed towards the spot and pacified the quarrel. The applicants have further threatened respondent no. 2 saying she could save herself this time but would take revenge on her. As a result, respondent no.2 approached Police Station and lodged report as referred to herein above against all the applicants.

3] The applicants have stated in the Criminal Application that the applicant no. 1 is the husband of Informant, applicant nos. 2 and 3 are the father-in-law and the mother-in-law of Informant. Whereas, applicant no. 4 is the brother-in-law of Informant/respondent no. 2 and the applicant no. 5 is the wife of applicant no. 4. It is further stated that, it was a love marriage between applicant no. 1 and the Informant/respondent no. 2. The applicants live in a two storey building; wherein applicant nos. 4 and 5 reside at the ground floor whereas applicant no. 1 and respondent no. 2 were residing on the first floor. The applicants

have further stated in the present application that the applicant nos. 2 and 3 are old aged parents and though they were residing with their sons but their agricultural property is at village Pimpla, Tq. Ashti, Dist. Beed, where they have their old house and applicants no. 2 and 3 therefore are required to stay at their village for more than six months in a year.

4] The applicants have further stated in the application that the respondent no. 2 without informing either applicant no. 1 or the other applicants left the matrimonial house in the month of January 2019 and all of a sudden the applicants received message from Chakur Police Station that the respondent no. 2 has lodged report against them. It is further stated that except the allegation that the respondent no. 2 was harassed and ill-treated for the monetary demand, there is nothing alleged in the FIR. There are no details as to when and how respondent no. 2 was ill-treated either physically or mentally. Hence, it is prayed that the application be allowed and the FIR and the proceedings arising therefrom be quashed against them.

SUBMISSIONS : -

5] Heard Mr. S. S. Bora, learned counsel for the applicants, Mr. S. J. Salgare, learned APP for respondent no. 1 / State and learned advocate Ms Sheetal Salunke for respondent no.2.

6] Learned advocate for the applicants submit that the allegations made are vague, baseless and general in nature. The contents of the complaint lacks the ingredients of the offences alleged. He further submits that, on perusal of the contents of the FIR, no prudent man can come to the conclusion that the applicants have committed the alleged offences and further there are no details with regard to the alleged cruelty to the Informant/respondent no. 2. He further submitted that, the applicants are already residing in their own house and therefore the allegation made in respect of demand of money for construction of house is false. He further submitted that the applicants are residing at Belapur whereas the report came to be lodged against the applicants at Chakur only with an intention to harass and compel them to seek leave to attend the police station and the court concerned. The allegations levelled have no basis and hence he prayed for allowing the application.

7] After hearing the parties at length, when this Court showed disinclination to grant relief in favour of applicant nos. 1 to 4 i.e. husband, father-in-law, mother-in-law and brother-in-law respectively of Informant/respondent no. 2, the learned counsel for the applicants sought, on instructions, leave to withdraw the application to the extent of applicant nos. 1 to 4. Leave as prayed for is granted. The Application stands disposed of as withdrawn to the extent of applicant nos. 1 to 4. Now, therefore, the application is considered only insofar as applicant no. 5 is concerned.

8] Learned counsel for the applicants further submitted that perusal of the FIR would clearly show that no specific allegations have been made against applicant no. 5, who is wife of applicant no. 4. He, therefore, prayed for allowing the application to the extent of applicant no. 5.

9] Learned APP Mr. Salgare for respondent no.1/State and the learned advocate Ms Sheetal Salunke appearing for respondent no. 2 submitted that there are specific and serious allegations against all the applicants and hence opposed for grant of relief in favour of the applicant no. 5.

ANALYSIS : -

10] For quashing the criminal proceedings under Section 482 of the Cr.P.C., we have to see, whether the allegations in the complaint and FIR *prima facie* establish the ingredients of the offence alleged.

11] The First Information Report has been lodged by the respondent no. 2. In the said report, respondent no. 2 has specifically stated that initially for a period of one year, she was treated with love and affection by the applicants including the husband. Soon thereafter, the applicants started ill-treating and harassing her on the count as to why she gave birth to a female child and kept her starved for couple of days. She was further ill-treated, harassed and was asked to bring Rs. 5.00 lakhs from her

parents for construction of house. The parents of respondent no. 2 were also manhandled by the applicants.

12] Perusal of the FIR shows the allegations in respect of harassment & ill-treatment on the ground of giving birth to a female child and the unlawful demand of Rs.5.00 lakhs from the respondent no. 2. The applicant no. 5, who is wife of applicant no. 4, *prima facie* appears to have played no role in harassing or ill-treating the respondent no. 2. No specific allegations have been made against applicant no. 5.

13] The Hon'ble Supreme 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.

14] The Bombay High Court in **Shaikh Mushrraf Pasha s/o Shaikh Mushtakh 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.

15] Thus, we are of the considered view that the respondent No.2 has filed the complaint against the distant relative of the husband i.e. applicant no. 5 with an ulterior motive

for wreaking vengeance on her. Continuation of prosecution against her, in our opinion, would amount to abuse of process of law.

16] Taking into consideration the ratio laid down in the cases of **Geeta Mehrotra** and **Shaikh Mushrraf Pasha** (supra), we are of the considered view that there are no specific allegations against the applicant no. 5 and only with a view to harass her she has 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 and set aside the FIR against the applicant no. 5.

ORDER

- [i] Criminal Application is partly allowed.
- [ii] Insofar as applicant nos. 1 to 4 are concerned, Criminal Application stands disposed of as withdrawn.
- [iii] Criminal Application is allowed to the extent of applicant no. 5.
- [iv] FIR vide C.R. No. 34/2019 dated 01.02.2019 registered at the instance of respondent no. 2 with Chakur Police Station, Dist. Latur, for the offences punishable under Sections 498A, 323, 504, 506 r/w 34 of the Indian Penal Code the the proceedings bearing R.C.C. No. 69/2019 pending in the court of

learned Judicial Magistrate First Class, Chakur, Dist. Latur, stands quashed and set aside as against applicant no. 5, namely, Aparna Dipak Shinde.

[RAJESH S. PATIL]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE