

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

936 CRIMINAL APPLICATION NO. 3624 OF 2019

1. SHRIKUMAR SURYAKANT INGALE
2. MR. SURYAKANT DHONDIRAM INGALE
3. MRS. NALINI SURYAKANT INGALE
4. MR. HRUSHIKESH SURYAKANT INGALE
5. MR. AMRUT SURYAKANT INGALE
6. MRS. VRUSHALI AMRUT INGALE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. Kulkarni Ashutosh S.
APP for Respondent No.1-State : Mrs. D. S. Jape
Advocate for Respondent No.2 : Mr. A. D. Aghav

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**CORAM : V. K. JADHAV AND
SANDIPKUMAR. C. MORE, JJ.
DATED : 20th JANUARY, 2022**

PER COURT:-

1. We have heard learned counsel for the applicants for some time. Learned counsel for the applicants, on instructions, seeks leave to withdraw the application of applicant no.1 Shrikumar Suryakant Ingale. Leave granted. The application of applicant no.1 Shrikumar Suryakant Ingale (husband of respondent no.2) is hereby dismissed as withdrawn.

2. Heard finally with consent at admission stage.

3. The applicants before us are seeking quashing of the FIR bearing crime no. 32/2019 registered with Tofkhana Police Station, Ahmednagar, for the offence punishable under Sections 498-A, 323, 504, 506 of IPC, so also the charge-sheet vide R.C.C. No. 37 of 2021 pending before learned Chief Judicial Magistrate at Ahmednagar.

4. Learned counsel for the applicants submits that though the names of the applicants are mentioned in the FIR, the allegations as against them are general in nature. The allegations have been made mainly against the co-accused husband, whose application seeking quashing of the proceedings came to be withdrawn. Learned counsel submits that the informant has quoted two incidents in the complaint. One incident allegedly occurred in the month of December 2016 and the other incident in January 2017. However, in respect of both the incidents, the allegations as against the applicants are absurd in nature. It is a case of over-implication and almost all the family members have been implicated in connection with the present crime.

5. Learned counsel for respondent no.2 submits that names of the applicants are mentioned in the FIR with a specific role attributed to each of them. In the month of December 2016, co-accused husband of respondent no.2 has demanded an amount of Rs.10,00,000/- to be

fetches from the father of respondent no.2 under the pretext that he wanted to re-pay the loan amount availed by his real brother Hrushikesh. Learned counsel submits that on account of non-fulfillment of the said demand, respondent No.2-informant was subjected to beating by fist and kick blows and she was actually driven out from the house. Learned counsel submits that the second incident has occurred with quick succession in the month of January 2017. Again, respondent no.2-informant was subjected to beating by fist and kick blows by the applicants. Learned counsel submits that the allegations made in respect of those two incidents are duly corroborated by the statement of one Rupali Rajesh Shinde, who happened to be the friend of respondent no.2-informant. Learned counsel submits that there is a triable case against all the applicants. There is no substance in this criminal application and the same is thus liable to be dismissed.

6. We have also heard learned APP for the respondent State.

7. We have carefully gone through the contents of the complaint so also the charge-sheet. Though we find names of the applicants mentioned in the FIR, however, the allegations have been made mainly against co-accused husband, whose application seeking

quashing the of FIR and the proceedings came to be withdrawn. Though in the complaint two incidents have been specifically referred, however, except names of the applicants, no individual role has been attributed to them. The allegations are general in nature. It is a case of over implication and almost all the family members have been implicated in connection with the present crime, including girlfriend of the co-accused husband against whom the proceedings came to be closed in another criminal application.

8. 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.”

9. 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”.

10. In the case of ***Taramani Parakh v. 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 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.

11. to 13.

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.”*

11. It is well settled that if the allegations are absurd in nature and if no case is made out, the proceedings are liable to be quashed. In the instant case, even if the allegations which are absurd in nature are held to be proved, no triable case is made out against the applicants. Thus, continuation of the proceedings against them would be the abuse of the Court process.

12. 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. The criminal application to the extent of applicant nos. 2 to 6 is hereby allowed in terms of prayer clauses "A" and "A-1".
- II. The criminal application is accordingly disposed off.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)