

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

957 CRIMINAL APPLICATION NO.3365 OF 2021

1. Ushabai W/o Prakash Patil (withdrawn)
2. Prakash S/o Govinda Patil (withdrawn)
3. Vaishali W/o Sachin Patil
4. Sachin S/o Subhash Patil
5. Rajendra S/o Bhimrao Baviskar
6. Himmatrao S/o Prataprao Borse (deleted)

Versus

1. The State of Maharashtra
2. Smt. Vedika @ Shilpa W/o Nilesh Patil

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Mr. Suniket Anil Kulkarni and Ms. Rutuja L. Jakhade, Advocates for the Applicants.

Mrs. P. V. Diggikar, APP for Respondent No.1 State.
Mrs. Uma S. Bhosle, Advocate for Respondent No.2.

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**CORAM : SARANG V. KOTWAL AND
BHARAT P. DESHPANDE, JJ.
DATED : 22nd JUNE 2022**

PER COURT:-

1. This is an application for quashing of the F.I.R. vide C.R. No. 335 of 2021 registered at Dondaicha police station for the offence punishable under Sections 498-A, 406, 323, 504, 506 r/w 34 of I.P.C. The application was originally preferred by six applicants. Applicant No.6 died during pendency of the application and thus his name is deleted. Application of applicant Nos. 1 and 2 was not pressed and therefore, application survived only in respect of applicant Nos. 3, 4 and 5. Applicant No.3 is sister of the informant's husband, applicant No.4 is husband of applicant No.3 and applicant No.5 is

informant's husband's uncle.

2. Respondent No.2-informant lodged the F.I.R. She has stated that she got married with her husband Nilesh Patil on 20.4.2018. At that time, her father had spent around Rs.5,00,000/- to 6,00,000/-. The informant's husband had earlier married and had obtained divorce from his first wife. After marriage, the informant was treated properly for two months. Thereafter, he started harassing her. It is specifically mentioned that the husband and in-laws used to assault her. They used to demand Rs.10,00,000/-. Allegations against applicant Nos. 3 and 4 are that they were residing at Dombivali, District Thane. They used to visit the informant's matrimonial house and instigate the husband and his parents. Allegation against applicant No.5 Rajendra is that he was the mediator. He had made false representation to informant's father that informant's husband was unmarried before marriage with the informant and fixed informant's marriage with him. It is alleged that applicant No.5 Rajendra used to visit her house and used to assault her. On the basis of these allegations, the F.I.R. is lodged.

3. Learned counsel for the applicants submitted that applicant No.3 is the married sister of informant's husband, who was not residing with the informant and her husband. All these applicants are residing separately.

4. Learned counsel for respondent No.2 submitted that there are allegations against all applicants in the F.I.R and the F.I.R. cannot be quashed. Learned counsel relied on the averments made in the F.I.R. and prayed for dismissal of the application.

5. We have considered the submissions of learned counsel and the averments in the F.I.R. The allegations against all the applicants are vague and general in nature. No specific instances are mentioned in the F.I.R. Admittedly, all applicants are residing separately and particularly, applicant Nos. 3 and 4 are residents of Dombivali, District Thane. No particulars about harassment or utterances are mentioned. As far as the allegations against applicant No.5 are concerned, it is alleged that he had made false representation to informant's father that the informant's husband was not married before the said marriage. However, that is not her grievance at all. The opening paragraph of the F.I.R. itself mentions that her husband had obtained divorce from his first wife. Even in the concluding part of the F.I.R. she has not raised any grievance regarding earlier marriage and divorce of her husband. The F.I.R. is only under Sections 498-A, 406, 323, 504 and 506 of I.P.C. and the F.I.R. is not under Section 420 of I.P.C. and no such grievance is made by the informant in the F.I.R. Allegations against applicant Nos.

3 and 4 are vague and general as well. As against applicant No.5, as he was not residing with the informant. He could not have visited the matrimonial house of informant and unnecessarily assaulted the informant. This appears to be a clear case of unnecessarily dragging other relatives of husband. In this view of the matter, continuation of the proceeding against these three applicants would amount to an abuse of process of law and therefore, the proceeding against them deserves to be quashed. Hence, the following order:-

O R D E R

- I. Criminal application is allowed in terms of prayer clause "B" qua applicant Nos. 3, 4 and 5.
- II. The F.I.R. vide C.R. No. 335/2021 registered at Dondaicha police station and consequent proceedings are quashed and set aside qua applicant No.3 Vaishali W/o Sachin Patil, applicant No.4 Sachin S/o Subhash Patil and applicant No.5 Rajendra S/o Bhimrao Baviskar
- III. The application is disposed of.

(BHARAT P. DESHPANDE, J.)

(SARANG V. KOTWAL, J.)

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