

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO.326 OF 2022.

{Vijay Amrutrao Ghate and Ors. ..Vrs.. State of Maharashtra and Anr.}

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri P. A. Kadu, Advocate for the Applicants.

Shri S. S. Doifode, Addl. P. P. for the Non-Applicant No.1/State.

CORAM : MANISH PITALE AND
VALMIKI SA MENEZES, J.J.

DATE : 23rd AUGUST, 2022.

1. Heard finally with consent of the learned counsel appearing for the rival parties.

2. By this application, the applicants are seeking quashing of First Information Report (FIR) No.0062 of 2022 dated 17.01.2022, registered at Police Station Old City, District Akola, for offences under Sections 323, 498, 504 and 506 read with Section 34 of the Indian Penal Code (IPC). The FIR stood registered at the behest of non-applicant no.2 on the basis of oral report submitted before the said Police Station.

3. There are total eight accused persons in the said FIR, of whom except the husband of non-applicant no.2, all the other accused persons are applicants before this Court.

4. The applicant nos.1 and 2 are the father-in-law and mother-in-law of the non-applicant no.2 and the applicant nos.4 to 7 are relatives of the husband of non-applicant no.2.

5. Shri P. A. Kadu, learned counsel appearing for the applicants submits that a perusal of the oral report leading to registration of the FIR would show that general and vague allegations have been made against the applicants before this Court, to the effect that they were inciting and instigating the accused no.1 i.e. the husband of the non-applicant no.2, to harass her and to physically abuse and assault her. It was submitted that inclusion of the applicants in the array of the accused in the FIR is another illustration of the tendency in such matters to rope in as many relatives of the husband as possible due to the matrimonial discord between the husband and wife. It was submitted that the initiation of criminal proceedings itself is rendered further doubtful, when it is appreciated that there is a delay of about four months in registration of the FIR from the date when the non-applicant no.2 claims to have left the matrimonial house.

6. It is further brought to the notice of this Court that earlier in point of time i.e. on 27.08.2021, the non-applicant no.2 caused an FIR to be registered at Amravati i.e. the place, where the matrimonial house is located, wherein she made allegations only against her husband i.e. accused no.1 and the applicant no.1 herein. In the said report, leading to registration of the FIR dated 27.08.2021, there was no reference to any harassment on the part of the applicant nos.2 to 7, although the non-applicant no.2 had opportunity to bring such actions

attributed to the said applicants, to the notice of the police. On this basis, it was submitted that the report leading to registration of the FIR dated 17.01.2022, was clearly an after thought, at least insofar as the applicants before this Court are concerned.

7. Shri Doifode, learned Additional Public Prosecutor has appeared on behalf of the non-applicant no.1/State and submitted that a perusal of the statements of the witnesses recorded during the course of investigation would show that all the alleged witnesses, including the father of the non-applicant no.2 has made statements identical to the statement made in the oral report by the non-applicant no.2. The case diary was handed over for perusal.

8. The non-applicant no.2 was served, but she chose not to appear before this Court.

9. We have perused the oral report leading to registration of the FIR and we have also perused the case diary, including the statements of all the alleged witnesses recorded during the course of investigation. We find that the allegations made against the applicants in the oral report as well as the statements of the witnesses are identical. It is stated in a general manner that the applicants had been instigating the husband of non-applicant no.2 i.e. the accused no.1 to harass her and to physically assault her. There are no specific allegations made against the applicants herein, other than the aforesaid general statements, which are repeated in parrot like fashion by all

the other alleged witnesses.

10. A proper appreciation of the aforesaid material indicates that the grievance of the non-applicant no.2 appears to be against the accused no.1 i.e. her husband in the backdrop of matrimonial discord. There is a statement made on behalf of the non-applicant no.2 that due to the jewellery business of the husband having failed, he had started demanding amounts from the family of the non-applicant no.2, apart from physically harassing and abusing her.

11. We do not find specific allegations against the applicants herein to demonstrate ingredients of the offences registered against them.

12. There is substance in the contention raised on behalf of the applicants that when the earlier FIR dated 27.08.2021, was registered at Amravati, at the behest of the non-applicant no.2, no such allegations were made even against the accused therein i.e. the accused no.1 in the subject FIR and the applicant no.1 herein, much less any role being attributed to the applicant nos.2 to 7.

13. We are of the opinion that the subject FIR, lodged about four months after the non-applicant no.2 left the matrimonial house on 28.08.2021, demonstrates improvements and hyperbole on the part of the non-applicant no.2, only with a view to wreck vengeance on the applicants.

14. It is by now settled law that when relatives of the husband are deliberately sought to be roped in, as regards offences that are registered in the backdrop of a dispute, which is essentially a matrimonial dispute between the husband and wife, this Court, while exercising inherent jurisdiction under Section 482 of the Code of Criminal Procedure ought to come to the aid of such persons, who have been unnecessarily roped in.

15. Additionally, it is brought to our notice that the applicant nos.3 to 7 have never resided in the matrimonial house. This is also a factor, which needs to be taken into consideration, while appreciating the contentions raised on behalf of the applicants.

16. In view of the above, we are convinced that the application deserves to be allowed. Accordingly, the application is **allowed** in terms of prayer Clause (i), which reads as follows:

“(i) Quash the F.I.R. bearing No.62 dated 17.01.2022 registered by the non-applicant no.1 (Annex. X) for the offence punishable under Sections 498-A, 323, 504, 506 r/w 34 of the Indian Penal Code in the interest of justice.”

(VALMIKI SA MENEZES, J.) (MANISH PITALE, J.)

TAMBE