

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.519 OF 2020

SAJAN S/O. MANGA SAMUDRE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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Mr. H.V. Tungar h/f Mr. S.T. Kazi, Advocate for the Applicants.

Mr. A.R. Kale, APP, for the Respondent – State.

Ms. Ashwini A. Lomte, Advocate for the Respondent No. 2 (Appointed).

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CORAM : SMT. ANUJA PRABHUDESSAI &
R.M. JOSHI, JJ

DATE : JANUARY 18, 2023

PER COURT :

1. With consent, heard finally at the stage of admission.
2. This is an application under Section 482 of Cr.P.C to quash criminal proceeding being R.C.C. No. 155/2019 pending on the file of learned JMFC, Shahada for offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code.
3. We have perused the records and considered the submissions advanced by learned Counsel appearing for respective parties.
4. The short point for our consideration is,

whether the first information report and other material collected in the course of investigation *prima facie* discloses cognizable offence as against these applicants.

5. The applicant no. 1 and 2 are the parents-in-law of the Respondent No.2, applicant nos. 3 and 4 are the paternal aunt and paternal uncle and applicant no. 5 is the married sister of her husband. Applicant no. 6 is the husband of applicant no. 5.

6. The Respondent no.2 was married to the Ashok Sajan Samudre, who is son of the applicant nos.1 and 2, on 02.08.2007. They have a child from the said wedlock. The Respondent no.2 lodged the report alleging that her husband and his family members had demanded Rs. 50,000/- and subjected her to physical and mental cruelty for not meeting the said unlawful demand. She has stated that the applicant nos. 3 and 4 are staying in the close vicinity of her matrimonial home. The applicant nos. 5 and 6 are the residents of Surat, Gujarat. She has stated that whenever these applicants come to her matrimonial home, they instigated her husband. She has alleged that her husband and his

family members including these applicants assaulted and threatened her.

7. Respondent No.2 has stated that in the year 2018, while she was at her parental home, her husband and his family members came to her house and told her to withdraw the case filed by her. She alleged that all of the applicants pulled her hair and further threatened to kill her in the event any warrant were to be issued against them in the said case. The statements of other witnesses are cyclostyle copies of the first information report.

8. The applicant nos. 1 to 4 are old and are in age group of 65 to 81 years. The applicant nos. 5 and 6 are residents of Surat, Gujarat. Respondent No. 2 has implicated all the family members without making any specific allegations against them. The first information report does not discloses as to when these applicants had demanded Rs. 50,000/-. As noted above, the applicant nos. 3 to 6 do not reside in the matrimonial home of Respondent no. 2. She does not mention when these applications had visited her matrimonial home. She has not given particulars of ill-

treatment but has made omnibus allegations against the family members of the husband of the Respondent No. 2 without attributing any specific accusations.

9. Having considered the records and the first information report, in our considered view, this case is covered under the illustrations 1 and 3 in the case of State of Haryana and Others Vs. Ch. Bhajan Lal and Others reported in AIR 1992 SCC 335. Under these circumstances, subjecting these applicants to face trial on the basis of unfounded allegations would be an abuse of process of the Court.

10. Hence, the application is allowed in terms of prayer clause 'B'. Consequently, R.C.C. No. 155/2019 pending on the file of learned JMFC, Shahada for offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code is quashed qua these applicants.

11. Fees of the appointed Counsel is quantified @ Rs. 6,000/- (Rs. Six Thousand only).

(R.M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J)