

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

CRIMINAL APPLICATION NO. 621 OF 2021

1. Mangala W/o Dilip Kasar,
Age: 61 Yrs, Occ: Household,
 2. Dilip S/o Kashinath Kasar,
Age: 64 Yrs, Occ: Agriculture,
Both applicant Nos. 1 and 2
R/o: Near Bhavani Mandir,
Shendurni, Tal: Jamner,
Dist: Jalgaon.
 3. Chitra W/o Ashok Kasar,
Age: 67 Yrs, Occ: Household,
 4. Ashok S/o Kashinath Kasar,
Age: 70 Yrs, Occ: Agriculture,
Both applicant Nos. 3 and 4,
R/o: Brahman Galli,
Shendurni, Tal: Jamner,
Dist: Jalgaon.
 5. Prashant S/o Ashok Kasar,
Age: 44 Yrs, Occ: Private Service,
 6. Geeta W/o Prashant Kasar,
Age: 36 Yrs, Occ: Household,
Both 5 & 6 R/o: Vikhroli,
District Mumbai.
 7. Jayshree W/o Chandrashekhar Komte,
Age: 36 Yrs, Occ: Household,
R/o: Plot No.78, Near Hanuman Mandir,
Vrundavan Nagar, Bhag 1, Type-C, Malkapur,
District Buldhana.
 8. Prakash S/o Dilip Kasar,
Age: 33 Yrs, Occ: Agri.,
Shendurni, Tal: Jamner,
Dist: Jalgaon.
- ... Applicants

Versus

1. The State of Maharashtra,
Through Sindkheda Police Station,
Dhule.
2. Sau. Puja W/o Dattatray Kasar,
Age: 31 years, Occ: Household,
R/o: C/o Rajendra Gokul Kasar,
Gandhi Chowk,
Tal: Sikdkheda, Dist: Dhule.

... Respondents

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Mr. N. E. Deshmukh, Advocate for the Applicants.
Mr. M. M. Nerlikar, APP for Respondent No.1-State.
Mr. Subodh P. Shah, Advocate for Respondent No.2.
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**CORAM : MANGESH S. PATIL AND
ABHAY S. WAGHWASE, JJ.**

DATED : 28 MARCH 2023

ORDER (ABHAY S. WAGHWASE, J.) :

1. In-laws of respondent no.2 are seeking exercise of power under Section 482 of the Code of Criminal Procedure (Cr.PC.) for quashing the FIR and charge sheet arising out of the complaint lodged by her, bearing no.17/2021 registered with Sindkheda Police Station, District Dhule for commission of offences punishable under Sections 498-A, 323, 504, 506 r/w 34 of the Indian Penal Code (IPC).

2. After disinclination was shown for consideration of any relief as regards applicant nos. 1 and 2 i.e. parents-in-law, learned counsel for the applicants,

on instructions, sought leave to withdraw the present proceedings as against them and it was accordingly granted.

3. Learned counsel for the applicants took us through the FIR and would submit that the complaint at the instance of respondent no.2 is with ulterior motive and merely to harass the husband and in-laws. He emphasized that now the instant proceedings are only against sister-in-law and brother of applicant no.2, son and daughter-in-law of applicant nos. 3 and 4 and sister-in-law and brother-in-law of respondent no.2.

4. He would submit that if one visits the complaint dated 16.01.2021, then it is clear that the allegations are general, non-specific, omnibus and without details and particulars and moreover, are directed only against the husband, however as stated above, husband is not a party to the proceedings and therefore, he is not seeking any relief.

5. It is further pointed out that respondent no.2 was residing with husband (non-applicant) at Andheri and present applicants had no occasion to jointly reside with the complainant respondent no.2. Therefore, according to him, the allegations levelled against the applicants are apparently baseless and patently false. It is submitted that even the applicants are residents of distinct places and there was no occasion for all of them to come together or to be in the

company of each other. He emphasized that there are mere allegations of instigating the husband as against them, but on what count has not been spelt out or clarified in the complaint.

6. Taking us through the statements of the witnesses, it is submitted that the investigating machinery has recorded statements of only close relatives and near and dear ones of respondent no.2 and their statements are replica of each other. Thus, according to him, in absence of material against remaining applicants, making them face trial would expose them to hardship and injustice.

7. Learned APP strongly opposed the application and prayers by pointing out that marriage is of 2010. That, non-applicant husband and respondent no.2 had two children. However, barely after 15 days of marriage, husband and in-laws, who are named in the FIR, indulged in maltreating respondent no.2 in the backdrop of demand of money and even subjected her to mental and physical cruelty. The husband, apart from drinking and beating respondent no.2, also behaved perversely and the same is evident from the contents of FIR. According to learned APP, he used to ill-treat respondent no.2 wife on instigation of present applicants. Therefore, when all are implicated and they are named herein, it is submitted that, applicants do not deserve relief as prayed.

8. Learned counsel for respondent no.2 also advanced submissions on similar lines as learned APP, and he pointed out that applicants are named in the FIR. Marriage is almost a decade old and there were several occasions where all accused and respondent no.2 have come together and therefore, mere stay of respondent no.2 with her husband at different place itself would not entitle them to escape from the legal process initiated against them. He pointed out that complainant had specifically stated that instead of giving understanding to the husband to behave properly, the same was overlooked and moreover, complaints herself was blamed. For all above reasons, he submits that application and prayers made in it be rejected.

9. After considering the submissions of both sides and bearing in mind the settled legal position, while exercising powers under Section 482 of Cr.P.C., it is emerging that husband is not a party to the instant proceedings. Learned counsel for the applicants has already withdrawn the application to the extent of applicant nos. 1 and 2 i.e. the parents-in-law. Therefore, present proceeding remains for consideration for relief in respect of only applicant nos. 3 to 8.

10. Taking into consideration the FIR and the statements of the parents and relatives of respondent no.2, it is clear that no specific role is attributed to applicant nos. 3 to 8. Applicant no.3 is wife of applicant no.4, applicant no.4 is

brother of applicant no.2, applicant nos. 5 and 6 are son and daughter-in-law of applicant nos.3 & 4. Whereas applicant no.7 is sister-in-law of respondent no.2 and applicant no.8 is brother-in-law of respondent no.2. Except applicant nos. 3 and 4, who are senior citizens, residence of other applicants in the title clause is distinct i.e. Vikhroli, District Mumbai and Malkapur, District Buldhana respectively. In support of their residence, copies of Aadhaar Card are annexed herewith. General allegations are made against all that there was demand of money time to time, husband beating with fist blows and all accused abusing, threatening and subjecting her to physical and mental cruelty. Therefore, it is apparent that neither details nor particulars of cruelty nor when the alleged incidence took place, is stated in the complaint. In the remaining part of the complaint, allegations are directed only against husband for his conduct and behaviour and bad vices. As stated above, he is not a party here. Therefore, there is not point in considering the allegations against him. Though statements of parents and neighbours are recorded, it is clear that all statements are stereotype.

11. In the light of above discussion, we are convinced that allegations against applicant nos. 3 to 8 are general, omnibus and vague in nature. In our opinion, it is an attempt to implicate the entire family out of annoyance and marital discord. The Hon'ble Apex Court in the cases of *Preeti Gupta and another v. State of Jharkhand and another* AIR 2010 SC 3363, *Geeta Mehrotra*

and another v. State of U.P; 2021 SCC OnLine SC 1251 and latest in the case of *Kahkashan Kausar @ Sonam and others v. State of Bihar and others; (2022) 6 SCC 599*, has clearly held that there is rising tendency in such cases to rope in entire family. Case in hand also seems to be one amongst such cases. Resultantly, prayers raised by applicant nos. 3 to 8 deserve to be allowed.

ORDER

- I. The application is partly allowed.
- II. The application to the extent of applicant nos. 1 and 2 is dismissed as withdrawn.
- III. The FIR No. 17 of 2021 registered with Sindkheda Police Station, Taluka Sindkheda, District Dhule for the offences punishable under Sections 498-A, 323, 504, 506 r/w 34 of IPC and the consequent criminal case bearing RCC No. 91 of 2021 pending on the file of the Judicial Magistrate First Class, Sindkheda are quashed and set aside to the extent of applicant nos. 3 to 8.

(ABHAY S. WAGHWASE, J.)

(MANGESH S. PATIL, J.)

VRE