

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2549 OF 2022

- 1] Hitesh Vijay Shrishrimal
Age : 41 years, Occu : Service
R/o : D-206, Chaitrangan Society,
Sukhsagar Nagar, Katraj,
Pune 411 046
- 2] Vijay Bhavarlal Shrishrimal
Age : 72 years, Occu. Business,
R/o Shimpi Galli, Yeola,
Tal. Yeola, Dist. Nashik
- 3] Sau. Hemlata Vijay Shrishrimal,
Age : 69 years, Occu. Household,
R/o. Shimpi Galli, Yeola,
Tal. Yeola, Dist. Nashik
- 4] Suyog Vijay Shrishrimal
Age : 39 years, Occu. Business,
R/o Shimpi Galli, Yeola,
Tal. Yeola, Dist. Nashik
- 5] Sau. Rashmi Kamlesh Lodha,
Age : 42 years, Occu. Household,
Ramesh Market, Main Road,
Shrirampur, Tal. Shrirampur,
Dist. Ahmednagar
- 6] Sau. Sudha Pravin Mandlecha
Age : 38 years, Occu. Household,
Runwal Green Tower, 8/304,
Mulund (W), Mumbai
- 7] Sau. Shweta Deepak Bora,
Age : 38 years, Occu. Household,
"Suparshwanath", Ground Floor,
Pune, Tal. & Dist. Pune

.. Applicants

Versus

- 1] The State of Maharashtra,
Through Pimpalgaon Police Station,
Tal. Pachora, Dist. Jalgaon

2] Sau. Vaishali Hitesh Shrishrimal
Age : 37 years, Occu. Household,
R/o : Lohara, Tal. Pachora,
Dist. Jalgaon

.. Respondents

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Advocate for applicants : Mr. Anand P. Bhandari
APP for the respondent – State : Mr. M.M. Nerlikar
Advocate for the respondent no. 2 : Mr. Abhay Ostwal

...

**CORAM : MANGESH S. PATIL &
M. M. SATHAYE, JJ.**

DATE : 6 MARCH 2023

ORDER (MANGESH S. PATIL, J.) :

This is an application under section 482 of the Code of Criminal Procedure seeking quashment of the crime no. 304 of 2021 registered with Pimpalgaon Police Station, Taluka - Pachora, District – Jalgaon for the offences punishable under section 498-A, 323, 504, 506 r/w. 34 of the Indian Penal Code as also the consequent chargesheet leading to registration of Regular Criminal Case No. 668 of 2021 in the Court of the learned Judicial Magistrate First Class, Pachora.

2. After hearing both the sides, when this Court expresses its disinclination to grant any relief to the applicants no. 1 and 3 who happen to be the husband and mother-in-law of the respondent no. 2, their learned advocate Mr. Bhandari, on instructions, seeks leave to withdraw the application to their extent.

3. The applicant no. 2 is the father-in-law of the respondent no. 2. Applicant no. 4 is her brother-in-law and the applicants no. 5 to 7 are her married sisters-in-law.

4. Broadly stated, the respondent no. 2 alleges in the FIR that she was married on 20-05-2009. After the marriage, her husband was residing in Pune as he was in the employment and was commuting between Pune and her matrimonial home at Yeola. She was residing there at Yeola with her parents-in-law and the brother-in-law - applicant no. 4. She was maintained appropriately for initial 7-8 months. She alleges that her sisters-in-law - applicants no. 5 to 7 were coming to her matrimonial home during festivities. After a year, the applicant no. 4 - Suyog got married but started residing separately because of some dispute. She then gave birth to a son in the year 2010. Thereafter, her mother-in-law started insisting that since she (respondent no. 2) was holding requisite educational qualification she should bring Rs.15 Lakh from her parents to set up a pharmacy. When she refused, her mother-in-law started teasing, abusing and taunting her. She used to instigate her husband on that count and he in turn also started abusing her. Applicant no. 4 - Suyog was also insulting her and even the sisters-in-law whenever they were coming to their parental home used to abuse her.

Her father-in-law - applicant no. 2 also threatened her to commit suicide if she would tell her parents about the dispute. In 2013,

when she went to Pune so that her son would be admitted to some school and would complete his education, she shifted there but even there her mother-in-law and the applicant no. 7 - Shweta subjected her to ill-treatment on account of the demand for money. In 2015 again she was sent back to Yeola but the ill-treatment and the demand continued. Unable to face the situation, she went back to her parental home in May 2020 and thereafter lodged the FIR on 31-10-2021.

5. Learned advocate Mr. Bhandari would vehemently submit that though the applicants have been named in the FIR, no specific and precise role is attributed to the applicant no. 2 – father-in-law, applicant no. 4 - brother-in-law and the sisters-in-law. It would be gross misuse of the process of law if they are allowed to be prosecuted on the basis of such vague and omnibus statements. Every attempt has been made by the respondent no. 2 to falsely implicate not only the husband and mother-in-law but rest of the applicants, even when the brother-in-law started residing separately within a year of the marriage of the respondent no. 2 and all the sisters-in-law were also married even before her marriage. There is a clear case of false implication. He cites decision in the matter of ***Kahkashan Kausar @ Sonam and others Vs. State of Bihar and others; (2022) 6 SCC 599***. In the absence of specific role attributed to each of the accused, the rest of the applicants cannot be allowed to face the prosecution and the proceedings be quashed *qua* the applicants no. 2 and 4 to 7.

6. The learned APP and the learned advocate for the respondent no. 2 Mr. Ostwal strongly oppose the application. They would submit that the FIR cannot be expected to be an encyclopedia. Chargesheet has been filed. The prosecution deserves to be extended sufficient opportunity to substantiate the allegations. The applicants would have a fair opportunity to contest the case. Role has been attributed to each of the applicants. This is not the stage to decipher the material on merits. At this juncture, the allegations based on the FIR and the statements of the witnesses are sufficient to disclose all the ingredients for constituting the offence against each of the applicants and the application be dismissed even against the rest of the applicants.

7. We have carefully considered the rival submissions and perused the papers. We have also gone through the decisions cited at the bar viz:

- (i) *Kahkashan Kausar @ Sonam and others Vs. State of Bihar and others*; (2022) 6 SCC 599;
- (ii) *Neelu Chopra and others Vs. Bharti*; 2009 (10) SCC 184
- (iii) *Geeta Mehrotra and another Vs. State of U.P.*; 2021 SCC OnLine SC 1251
- (iv) Division Bench order of this Court dated 07-03-2022 in Criminal Application no. 3724 of 2019 in the matter of Salman S/o. Jamal Khan Pathan and others V. The State of Maharashtra and another

8. True it is that the FIR is not supposed to be an encyclopedia. Now that even chargesheet has been filed, not only the

FIR but even the circumstances as have been sought to be substantiated on the basis of the material collected by the Investigating Officer will have to be taken into consideration. Simultaneously, as has been laid down in the catena of cases referred to hereinabove, this Court should be on guard so far as implication of the applicants no. 2 and 4 to 7 are concerned, since it is usual tendency when a matrimonial dispute arises to rope in as many relatives of the husband as possible.

9. As has been mentioned herein-above, there are indeed allegations as against the applicant no.1 - husband and applicant no. 3 - mother-in-law and having indicated so, the application to their extent has been sought to be withdrawn.

10. This leaves us to ascertain complicity of the rest of the applicants and the material collected by the Investigating Officer regarding it. Obviously, these other applicants have also been named in the FIR. Even in the statements of the witnesses who are the relatives of the respondent no. 2 from her parental side there are allegations that as far as applicant no. 2 is concerned who is the father-in-law he had once threatened the respondent no. 2 of committing suicide if the marital discord and dispute was informed to her parents. Except this there are no allegations against the father-in-law either regarding demand for money or for subjecting her to cruelty *albeit* along with the husband and the mother-in-law even it has been vaguely

mentioned as the father-in-law and brother-in-law and sisters-in-law having subjected her to cruelty.

11. As far as the applicant no. 4 - Suyog who is the brother-in-law is concerned even the FIR itself reads that within a year of the marriage of the respondent no. 2 even he had got married and had started residing separately from his own parents.

12. Admittedly, the applicants no. 5 to 7 are the married sisters-in-law and even according to the respondent no. 2 as mentioned in the FIR and the statements of the witnesses, it has been vaguely alleged that whenever they were coming back to the parental home, they were giving her insulting treatment and were instigating her husband to subject her to cruelty. A similar allegation is levelled against the applicant no. 4 - Suyog that he was insulting her.

13. Considering the fact that the informant was married in the year 2009, was cohabiting in the matrimonial home be it at Yeola or Pune all throughout this period, till she went back to her parents on 11-05-2020 though one can easily appreciate that there must have been some matrimonial dispute and even she must have been meted out some ill-treatment as is being alleged, the entire allegations seem to disclose the role of the husband and the mother-in-law. The allegation against the rest of the applicants are based on vague and omnibus statements. The allegations are apparently absurd and in any case would not attribute those other applicants with the allegations which

would constitute all the ingredients for which they have been charged. It would be an abuse of the process of law if even these other applicants are allowed to face the prosecution with such weak, vague and omnibus allegations. Following the trend of law as is repeatedly laid down by the Supreme Court, the case is squarely covered by all these decisions and the instances laid down in the matter of ***State of Haryana and others Vs. Ch. Bhajan Lal and others; AIR 1992 SC 604.***

14. The Application is partly allowed, Crime no. 304 of 2021 registered with Pimpalgaon Police Station, Taluka - Pachora, District – Jalgaon for the offences punishable under section 498-A, 323, 504, 506 r/w. 34 of the Indian Penal Code as also the consequent chargesheet leading to registration of Regular Criminal Case No. 668 of 2021 in the Court of the learned Judicial Magistrate First Class, Pachora to the extent of the applicant no. 2 and applicants no. 4 to 7 is quashed and set aside.

15. Application to the extent of applicants no. 1 and 3 is dismissed.

[M. M. SATHAYE]
JUDGE

arp/

[MANGESH S. PATIL]
JUDGE