



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 37 OF 2021

- 1) Ashok s/o Bhanudasrao Munde,
Age 51 years, Occ. Agril.
- 2) Ranjana w/o Ashok Munde,
Age 31 years, Occ. Household.
- 3) Santosh s/o Shivram Chate,
Age 26 years, Occ. Agriculture,
All r/o. Ahmedpur, Tq. Ahmedpur,
Dist. Latur.

... Applicants

VERSUS

- 1) The State of Maharashtra
Through Police Inspector,
Police Station Parli (Rural)
Tq. Parli, Dist. Beed.
- 2) Prajakta w/o Parmeshwar Phad
Age 20 years, occ. Household,
R/o. Kasarwadi, Tq. Gangakhed,
Dist. Parbhani At present Kanherwadi,
Tq. Parli (V) Dist. Beed

... Respondents

...

Advocate for the Applicants : Mr. M. S. Karad
A.G.P for the Respondent No. 1 : Mr. M. M. Nerlikar
Advocate for Respondent No. 2 : Mr. Ashok A. Munde

CORAM : MANGESH S. PATIL &
SHAILESH P BRAHME, JJ.

DATE : 11.01.2024

ORDER : (PER : MANGESH S. PATIL, J.)

Heard. Rule. Rule is made returnable forthwith. Learned A.P.P. waives service for the respondent no. 1 and learned advocate Mr. Munde waives service for the respondent no. 2. At the joint request of the parties, the matter is heard finally at the stage of admission.

2. The applicants who are accused nos. 4 to 9 in a charge-sheet filed in connection with Crime No. 272/2020 registered with Parali (Rural) police

station, District Beed, for the offences punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code are seeking quashment of the crime and the criminal case bearing R.C.C. No. 137/2021 pending before the Judicial Magistrate First Class, Parali (V) Dist. Beed.

3. The respondent no. 2 has filed the F.I.R. alleging that she was married to the accused no. 1 on 18.06.2018 and started cohabiting with him in the matrimonial home. The applicant no. 1 is the son of husband's paternal aunt, applicant no. 2 is the wife of applicant no. 1 and applicant no. 3 is the brother of applicant no. 2. The F.I.R. alleges that respondent no. 2's husband was in the employment in a nursing college being run by applicant no. 1. She was maintained properly for first five months. However, thereafter, the applicants and brother and sister of the husband started insulting her saying that they were not appropriately gifted at the time of marriage. They started instigating the husband on that count and even started declaring that they would cause her husband to marry second time. It is then alleged that on such instigation her husband under the influence of liquor started physically and mentally illtreating her. He started insisting her to bring money from her parents. She used to narrate it to her parents whenever she used to go back to her parental home. However, her parents used to convince her to resume cohabitation. Ultimately, she was driven out of matrimonial house by all the accused persons.

4. The learned advocate for the applicants would submit that though the applicants' names appear in the F.I.R. as also the statements of the witnesses, the allegations are vague and omnibus. Admittedly, the applicants were not residing under the same roof wherein the respondent no. 2 was leading matrimonial life. They are distant relatives of the husband and have been roped in with a view to harass them. It would be abuse of process of law to make them face the prosecution. Their case is squarely covered by the instances laid down in the matter of ***State of Haryana and Ors V/s. Bhajan Lal and Ors., AIR 1992 Supreme Court, 604.***

5. Per contra, the learned A.P.P. and the learned advocate for the respondent no. 2 would oppose the application. They would submit that in exercise of the powers under Section 482 of the Code of Criminal Procedure this court cannot undertake scrutiny of the material collected by the investigating officer. Specific role has been attributed to the applicants in the manner in which they had subjected the respondent no. 2 to cruelty. The prosecution deserves to be extended an opportunity to substantiate the allegations. The fact that the husband is in the employment of the applicant no. 1's college is demonstrative of the latter's influence on the husband. There is an independent witness-Baliram Harischandra Munde. The application be rejected.

6. We have carefully considered the rival submissions and perused the papers.

7. To repeat, the allegations against the applicants as can be made out from the F.I.R. as also the statements of the witnesses are to the effect that the applicants were frequenting to the matrimonial home of the respondent no. 2 and would insult her by saying that they were not appropriately honoured at the time of her marriage. It is then alleged that they were instigating her husband and he used to illtreat her. Accepting the allegations at their face value, one can easily conclude that indeed the allegations are vague and omnibus. Admittedly, the applicants were not residing with the couple under the same roof. The couple was leading the matrimonial life at Kasarwadi Tq. Gangakhed, whereas the applicants are residents of Ahmedpur, Dist. Latur.

8. Coupled with the above state of affairs, it is important to note that the marriage was solemnized on 18.06.2018 and the F.I.R. has been lodged on 22.09.2020. Even the respondent no. 2 admits that she was maintained properly for first five months. Even the F.I.R. reads that she had come back to the parental home and started residing there since 15.06.2020. We are

not pointing out the delay in lodging of the F.I.R., we are pointing out this fact to demonstrate that the respondent no. 2 cohabited with the husband barely for one and half year. There was hardly any time wherein the applicants could have visited their place of residence. It is not that either the F.I.R. gives any particulars about such visits or the parents of the respondent no. 2 and even the witnesses whose statements have been recorded under Section 161 of the Code of Criminal Procedure have stated about the number of instances wherein the respondent no. 2 had told them about the applicants having insulted her.

9. The independent witness Baliram Munde being relied upon by the prosecution has no direct knowledge and has merely stated in his statement what was told to him by the father of the respondent no. 2.

10. In view of such state of affairs and the quality of material collected by the investigating officer, in our considered view, the applicants' case is squarely covered by the instances laid down in the matter of ***Bhajan Lal and Ors. (supra)***. It would be abuse of process of law if the applicants are made to face the prosecution based on the quality of material collected during the investigation.

11. The Application is allowed. Crime No. 272/2020 registered with Parali (Rural) police station, District Beed, for the offences punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code and the consequent charge-sheet and the criminal case bearing Regular Criminal Case No. 137/2021 pending before the Judicial Magistrate First Class, Parali (V) Dist. Beed, is quashed and set aside to the extent of the applicant no. 1-Ashok s/o Bhanudasrao Munde, applicant no. 2- Ranjana w/o Ashok Munde and applicant no. 3-Santosh s/o Shivram Chate.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-