



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2369 OF 2023

- 1) Nagnath Tammanappa Raifale
(disposed of as withdrawn
on 01.08.2023)
 - 2) Somnath Tamannapa Raifale,
Age 34 years, Occ. Service,
R/o. Malkolanji Tq. Ausa, Dist.
Latur.
 - 3) Jaganath Tamannapa Raifale,
Age 32 years, Occ. Service,
R/o. Malkolanji Tq. Ausa, Dist.Latur.
 - 4) Vimalbai Tamannappa Raifale,
... (disposed of as withdrawn)
 - 5) Sunita w/o Nandkumar Gothe,
Age 36 years, Occ. Household,
R/o. Malkolanji Tq. Ausa, Dist.
Latur.
- ... Petitioners

VERSUS

- 1) The State of Maharashtra,
Through Vivekanand Chowk Police
Station, Latur, Tq. & Dist. Latur.
 - 2) Sonali w/o Nagnath Raifale,
Age 32 years, Occ. Household,
R/o. Kharosa, Tq. Ausa, Dist. Latur,
Current Add. Badlava Nagar,
LIC, Colony, Tq. & Dist. Latur.
- ... Respondents

...

Advocate for Petitioners : Mr. S.N. Lale Yelwatkar.

APP for Respondent No. 1 : Mr. K.N. Lokhande

Advocate for Respondent No. 2 : Ms. Yugandara A. Namde (Appointed)

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

DATE : 02.02.2024

PER COURT :

Heard. Rule. Rule is made returnable forthwith. Learned A.P.P. waives service for respondent no.1/State and learned advocate Ms. Namde waives service for the respondent no. 2. At the joint request of the parties, the matter is heard finally.

2. This is an application under Section 482 of the Code of Criminal Procedure seeking quashment of Crime No. 60/2022, registered with Vivekanand Chowk Police Station, Latur, District Latur, for the offences punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code and the consequent charge-sheet as well as the Regular Criminal Case No. 226/2022, pending before the Chief Judicial Magistrate, Latur.

3. The application to the extent of the applicant no. 1, who happens to be the husband of the respondent no. 2 was disposed of as withdrawn on 01.08.2023.

4. After hearing both the sides, when we express our disinclination to grant any relief to the applicant no. 4 who is the mother in law of the respondent no. 2, the learned advocate for the applicants seeks leave to withdraw the application to the extent of applicant no. 4 as well.

5. The F.I.R. alleges that the marriage between the applicant no. 1 and the respondent no. 2 was solemnized on 17.05.2009. She was maintained properly for first three-four months. She thereafter realized that the applicant no. 1 was addicted to liquor and under influence started abusing her. He was insisting her for purchasing a motor-cycle. When she narrated the incident and the illtreatment meted out to her by the husband to rest of

the applicants, they ignored and instead abused her and even they started insisting to bring a motor-cycle from the parents.

6. The F.I.R. then mentions about the father of the respondent no. 2 and her other relatives from parental side having tried to convince the applicants but her plight continued and some how her father could purchase a motor-cycle for the applicant no. 1-husband.

7. The F.I.R. further reads that the applicant no. 1 was thereafter transferred to Guhagar, District Ratnagiri, where only the couple cohabited and could beget a son in the year 2012 and a daughter in 2014. The applicant no. 1 thereafter started insisting her father for money for managing his transfer. He was thereafter transferred to Latur in the year 2014. Her father constructed a house for the couple on a plot standing in her name where they started residing. However, thereafter, the applicants started insisting to mutate the house property in the name of applicant no. 1. On that count he started abusing and beating her and even he started some affair and ultimately the property was mutated in his name in the year 2021 but still the illtreatment continued and the F.I.R. was lodged on 20.01.2022.

8. The learned advocate for the applicants would submit that the allegations are primarily against the husband and to some extent against the mother in law. However, the rest of the applicants have been implicated without attributing any specific incident. The allegations against them are vague and omnibus. The statements of the witnesses recorded under Section 161 of the Code of Criminal Procedure are also equally vague and omnibus. Merely because the rest of the applicants have been named in the F.I.R. that would not suffice. They have been roped in with an ulterior intention to harass them. It would be abuse of process of law if they are made to face the prosecution as laid down in the matter of ***State of Haryana and Ors V/s. Bhajan Lal and Ors.: AIR 1992 Supreme Court, 604.***

9. Per contra, the learned A.P.P. and the learned advocate who has been appointed to represent the respondent no. 2 strongly oppose the application. They would submit that there are specific and precise allegations even against rest of the applicants. It is a matter of proof which can be had only during a full fledged trial. An opportunity deserves to be extended to the prosecution to substantiate the allegations by leading evidence and the application be rejected.

10. Having considered the rival submissions and having perused the papers of the investigation it is quite apparent that there are allegations against the husband and the mother in law as regards the alleged demand and physical and mental illtreatment meted out to the respondent no. 2 over a period of time.

11. Rest of the applicants are concerned, they are the brothers in law and the married sister in law. Admittedly, the marriage between the applicant no. 1 and the respondent no. 2 was solemnized way back in the year 2009 and the couple led married life till the year 2021, just before filing of the F.I.R. Even the couple could beget couple of issues and one can easily make out that the allegations are about the illtreatment meted out to the respondent no. 2 by the husband and mother in law. So far as the other applicants are concerned, no specific and exclusive role is attributed to them. Not only in the F.I.R. but even in the statement of the witnesses recorded under Section 161 of the Code of Criminal Procedure which are of father, brother and other relatives, the allegations qua the rest of the applicants are merely vague and omnibus. At times there are some allegations attributing them of exhortation.

12. If such is the quality of allegations and the material collected during investigation, there is every room to believe and to demonstrate that the rest of the applicants have been sought to be implicated with a view to harass them, which is usual tendency noted by the Supreme Court in the matter of

Kahkashan Kausar alias Sonam and others Vs. State of Bihar; (2002) 6 SCC 599, which is preceded by several such decisions like **Preeti Gupta and Anr. V/s. State of Jharkhand and Anr. [(2010) 7 Supreme Court Cases 667]**, **Geeta Mahrotra & Anr V/s. State of U.P. & Anr. [2013 (AIR) (SC) 181]**.

13. It would be sheer abuse of process of law if the applicants no. 2, 3 and 5 who are brothers in law and married sister in law are allowed to face the prosecution based on such vague and omnibus allegations and their case squarely covered by ***Bhajan Lal (supra)***.

14. The Application is partly allowed. Crime No. 60/2022, registered with Vivekanand Chowk Police Station, Latur, District Latur, for the offences punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code and the consequent charge-sheet as well as the Regular Criminal Case No. 226/2022, pending before the Chief Judicial Magistrate, Latur are quashed and set aside to the extent of the applicant no. 2 Somnath Tamannapa Raifale, applicant no. 3-Jaganath Tamannapa Raifale, and applicant no. 5-Sunita w/o Nandkumar Gothe.

15. The application to the extent of applicant no. 4-Vimalbai Tamannappa Raifale, is dismissed as withdrawn.

16. Learned advocate Ms. Namde was appointed to represent the respondent no. 2 and we quantify her fees at Rs. 3000/- (Rs. Three Thousand only) to be paid through the High Court Legal Aid Services Authority.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-