



Diksha Rane

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.952/2022

1. PRAMILA ANIL BAGADE
2. KIRAN ANIL BAGADE
3. KOMAL SANTOSH KALE
4. AVINASH PADGAONKAR

..APPLICANTS

VS.

THE STATE OF MAHARASHTRA & ANR.

..RESPONDENTS

Adv. Rekha Musale a/w. Adv. Kavita P. Shinde for the
applicants.

Mr. S. H. Yadav, APP for the State.

Adv. Shivani S. Shinde for the respondent no.2/Amicus
Curaie.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 9, 2024.

JUDGMENT :

1. Heard learned counsel for the applicants, learned APP
for the State and learned counsel Ms. Shivani Shinde
appointed by this Court to represent the respondent no.2.

2. This application is preferred under Section 482 of the
Code of Criminal Procedure (hereafter 'the Cr.P.C.' for short)
for quashing a complaint filed under Section 12 of the
Protection of Women from Domestic Violence Act, 2005
(hereafter 'the said Act' for short) before the Court of

J.M.F.C., Kalyan by the respondent no.2 against her in-laws.

3. The applicant no.1 is the mother-in-law of the respondent no.2. The applicant no.2 – Kiran is the brother-in-law. The applicant no.3 - Komal is the sister-in-law and the applicant no.4 - Avinash is the friend of the respondent no.2's husband. The respondent no.2 filed the proceedings before the trial Court against her in-laws under Section 12 of the said Act seeking reliefs under Sections 18, 19, 20, 22 and 23 of the said Act.

4. The respondent no.2 married Suraj on 5/11/2017 as per the Hindu rites and customs. The respondent no.2 was staying in the matrimonial home at the address mentioned in the cause title. Her in-laws have ancestral property at Satara. It is alleged that her husband started avoiding the respondent no.2 after marriage and he was continuously visiting his village in Satara. It is alleged that much of the husband's time was spent with his friends. The respondent no.2 later realized that her husband was suffering from depression for which he had to undergo treatment. The applicant no.1- Pramila (mother-in-law) blamed respondent no.2 for her son's illness. It is submitted that her in-law were

ill-treating her and even during pregnancy, the applicant no.1 Pramila and applicant no.3 Komal forced her to do hard work and asked her to lift heavy buckets, heavy water pot etc all which had devastating effect on her mental and physical health. For the alleged ill-treatment, mental and physical harassment, a complaint was lodged against her husband on 4/5/2021.

5. Learned counsel for the applicants in support of her submission that general and vague allegations are made against the applicants, relied upon the decision of this Court, Bench at Aurangabad in *Dhananjay Mohan Zombade & ors. vs. Prachi w/o. Dhananjay Zombade*¹. My attention is invited to the observations made therein. It is therefore submitted that on the basis of the vague and general allegations which do not satisfy the ingredients of any of the offence alleged against the applicants, the complaint lodged is nothing but an abuse of the process of Court and consequently, the complaint be quashed.

6. Learned APP and learned counsel for the respondent no.2 on the other hand submitted that there are specific

¹ Criminal Application No.312/2023 decided on 18/7/2023.

allegations made by the respondent no.2 against the applicants in the complaint. It is submitted that the applicants harassed the respondent no.2 mentally, physically and ill-treated her.

7. Having heard learned counsel I am of the opinion that the present application deserves to be allowed partly. The respondent no.2 has averred that the applicant nos.1, 2 and 3 are living together along with respondent no.2 and her husband under the same roof. So far as the applicant no.4 is concerned, he is alleged to be the friend of the respondent no.2's husband. There are hardly any allegation against the applicant no.4 in the complaint. The allegations are vague and general which to my mind are not sufficient for the complaint to proceed against him.

8. So far as the applicant no.1 Pramila is concerned, she is the mother-in-law of the respondent no.2 staying under the same roof. There are specific allegations made in the complaint against her. There are also allegations that the applicant no.1 was taunting the respondent no.2 that it was she who drove her son to the mental state resulting in his illness. There are allegations of ill-treatment. I am therefore

not inclined to quash the complaint against the applicant no.1- Pramila.

9. I find that as against the applicant no.2 Kiran and applicant no.3 Komal, the allegations are absolutely vague and general in nature. Proceeding against the applicant no.2 – Kiran and applicant no.3 – Komal on the basis of such vague and general allegations would be an abuse of the process of the Court.

10. Learned counsel for the respondent no.2 relied upon the decision of the Supreme Court in *Kunapareddy alias Nookala Shankar Balaji vs. Kunapareddy Swarna Kumari and another*² to contend that the trial Court can always allow an application for amendment of the complaint in appropriate cases. Reliance is also placed on the decision of this Court in *Sarvesh Chandra Trivedi & Anr. vs. Ananya Ranjit Chakrabati & Anr.*³ to contend that in case the complaint is not appropriately drafted, it is always open for the complainant to amend the complaint.

11. In the facts and circumstances of the present case, having regard to the nature of accusations as against the

² (2016) 11 SCC 774

³ Cri.WP/369/2015 decided on 4/12/2015.

applicant no.2 Kiran, applicant no.3 Komal and applicant no.4 Avinash being vague and general in nature, I am inclined to allow the application so far as the applicant no.2 Kiran, applicant no.3 Komal and applicant no.4 Avinash are concerned.

12. It is always open for the respondent no.2 to file a fresh complaint or move an appropriate application for amendment which shall be considered in accordance with law. Keeping this liberty open, the application is allowed to the extent of the applicant no.2 Kiran, applicant no.3 Komal and applicant no.4 Avinash. Consequently, the complaint so far as the applicant no.2 Kiran, applicant no.3 Komal and applicant no.4 Avinash pending before the J.M.F.C., Kalyan, is concerned, the same is quashed and set aside.

13. The application against the applicant no.1 is dismissed. The complaint to proceed against the applicant no.1 Pramila and other concerned respondents in the complaint.

14. A request is made to continue the interim order earlier granted for a reasonable time. I am not inclined to accede to the request of the applicants for continuation of the

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interim order.

15. The criminal application is partly allowed and disposed of.

(M. S. KARNIK, J.)