



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 3592 OF 2024

1. Yashodabai Devidas Baisane
Age : 65 years, Occ : Household,
R/o 25, Sakri Road, Navajivan English
High School New
Sai Ekta Nagar, Dhule
District Dhule 424 001
2. Devidas Narayan Baisane
Age : 70 years, Occ : Retd.
R/o 25, Sakri Road, Navajivan English
High School New
Sai Ekta Nagar, Dhule
District Dhule 424 001
3. Rajendra Devidas Baisane
Age : 44 years, Occ : Service,
R/o 25, Sakri Road, Navajivan English
High School New
Sai Ekta Nagar, Dhule
District Dhule 424 001
4. Meena Ramesh More
Age : 47 years, Occ : Household,
R/o 25, Sakri Road, Navajivan English
High School New
Sai Ekta Nagar, Dhule
District Dhule 424 001
5. Anil Ananda Sonawane
Age : 56 years, Occ : Agri.,
Dr. Babasaheb Ambedkar Putala
Jhangirpura Erandol,
Tq. Erandol, Dist. Jalgaon 425109
6. Ashok Namdev Salunkhe
Age : 70 years, Occ : Agri.,
At Post. Gandhili, Tq. Amalner,
Dist. Jalgaon 425420

..APPLICANTS

-VERSUS-

1. The State of Maharashtra
Through Police Sub-Inspector,
Dhule Police Station, Dhule,
Tq. Dhule, Dist. Dhule.
2. Kajal Rahul Baisane
Age : 30 years, Occ : Household,
R/o Plot no.25A, Swami Dayanand Housing
Society, Sakri Road, Deur Budruk,
Dhule, Tq. & Dist. Dhule.

..RESPONDENTS

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Advocate for the applicants : Mr. R.W. Baul
APP for Respondent- State : Mr. A.R. Kale
Advocate for respondent No.2 : Mr. Akram Inamdar (Appointed)

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**CORAM : SMT. VIBHA KANKANWADI AND
ROHIT W. JOSHI, JJ.**

DATED : 8th JANUARY, 2025.

JUDGMENT (PER ROHIT W. JOSHI, J.) :

. The present application is filed under Section 482 of the Code of Criminal Procedure (Cr.PC.) praying to quash F.I.R. No.74/2019 registered against applicants on 02.03.2019 with Dhule City Police Station, for the offences punishable under Sections 143, 147, 149, 323, 504, 506 and 427 of the Indian Penal Code (I.P.C.).

2. The said F.I.R. is lodged by respondent no.2. Applicant Nos.1 to 4 are related to respondent no.2 as mother-in-law, father-in-law, brother-in-law and sister-in-law respectively. Applicant Nos.5 and 6

are the husbands of sisters-in-law of respondent no.2. Rahul Baisane has died on 22.11.2019. The applicants alleged that Rahul Baisane, husband of respondent no.2 committed suicide due to mental distress and harassment caused by respondent no.2 by resorting to vexatious and frivolous litigation against her husband- the deceased. Respondent No.2 has stated in the FIR that she had filed a domestic violence case seeking maintenance against her husband at Dhule. On 28.02.2019, she was present in Dhule Court premises along with her father and brother to attend the domestic violence case, which was fixed on that date. She has stated that her husband did not turn up in the Court on the said date and after the next date was given, while they were still in the Court premises, her husband and the present applicants came there and started beating her father and brother and when she intervened, she was also beaten up by them. She then states that due to the chaotic situation, the people in the Court premises intervened and saved them. Based on these allegations, respondent no.1 has registered the above FIR and after completion of investigation has filed Charge-Sheet No.69/2020 on 30.06.2020. Pursuant to which, S.C.C. No.1566/2020 came to be registered and is pending adjudication before the learned Chief Judicial Magistrate, Dhule.

3. We have heard Mr.R.W. Bagul, learned counsel for the

applicants. He states that since there was matrimonial discord between respondent no.2 and her husband, she has implicated all the family members of her estranged husband by lodging false FIR. He states that the contents of FIR are most unbelievable and improbable. He also draws our attention to the fact that applicant nos.5 and 6 are residents of Erandol and Amalner respectively. He has further submitted that although the incident is stated to be occurred in the Court premises where many persons were present, respondent no.1 could not find any single independent witness. He points out that the investigating officer has merely recorded statements of respondent no.2, her parents and brother and her uncle, Prakash Khanderao Wagh, who has stated that he learnt about the alleged incident from his brother Prabhakar i.e. father of respondent no.2. He states that since the incident had never occurred, the prosecution could not find single independent witness. He has also referred to FIR to contend that the allegations are lacking in material particulars and rather absolutely vague and omnibus in nature. Specific role is not attributed to any of the applicants.

4. As against this, Shri A.R. Kale, learned APP appearing for respondent no.1 and Shri Akram Inamdar, learned appointed counsel for respondent no.2 contend that the FIR discloses cognizable offence and as such, the present application should be rejected since the

correctness of allegations cannot be adjudicated in the present proceedings.

5. Having heard rival submissions and upon perusal of the record of the case, we find that allegation in the FIR is that at about 4:30 p.m., the present applicants and deceased husband of respondent no.2 had beaten up respondent no.2, her father and brother. It is undisputed that there was matrimonial discord between respondent no.2 and her deceased husband. All the family members of the estranged husband have been implicated in the matter. Applicant Nos.5 and 6 are not residents of Dhule. The mother-in-law and father-in-law of respondent no.2 are senior citizens, who were around 60 and 65 years old approximately on the date of incident. Applicant No.4, who is married sister-in-law, is also implicated in the matter along with the husbands of other two sisters-in-law. What is surprising is that although the incident is alleged to have occurred in bright day-light during Court working hours, the investigating officer could not find a single independent witness in support of allegations in the FIR. Charge-Sheet also does not indicate that the victims of offence i.e. respondent no.2, her father and brother were referred for medical examination although there is allegation of sustained assault although not by means of any weapon. Allegations in the FIR are not confidence inspiring. Story in

the FIR appears to be concocted.

6. Having regard to the material collected during the course of investigation, we find that the material on record is absolutely inadequate for drawing home the charge. The Hon'ble Supreme Court has held in the cases of *Madhavrao Jiwajirao Scindia and others Vs. Sambhajirao Chandrojirao Angre and others* reported in *AIR 1988 SC 709* and *Satish Mehra Vs. State of N.C.T. of Delhi and others* reported in *AIR 2013 SC 506* that if the material collected during the course of investigation is very scanty and grossly inadequate to establish the charge and is of such nature that the prosecution appears to be bound to fail, it will be just and valid ground for quashing of criminal proceeding.

7. We must also take notice of the fact that there was marital discord between respondent no.2 and her husband. They were contesting several litigation against each other. The principles that are laid down by the Hon'ble Supreme Court in appreciation of material in matrimonial disputes need to be taken notice of and applied in the facts of the present case. The Hon'ble Supreme Court has cautioned in the matter of *Preeti Gupta and others Vs. State of Jharkhand and others* reported in *(2010) 7 SCC 667* that pragmatic realities in matrimonial

dispute should be taken into consideration while dealing with criminal cases arising out of matrimonial discord. The Hon'ble Supreme Court has taken notice of phenomenal rise in criminal cases arising out of matrimonial discord whereof the family members and near relatives of the husband are implicated in the criminal cases. In the matter of ***G.V. Rao Vs. L.H.V. Prasad and others*** reported in ***(2000) 3 SCC 693***, the Hon'ble Supreme Court has taken note of outburst in matrimonial disputes where elders in the family, who can mediate to resolve the matrimonial discord, was also arrayed as accused. In the case of ***Mamidi Anil Kumar Reddy Vs. The State of Andhra Pradesh and others*** reported in ***2024 SCC Online SC 127***, the Hon'ble Supreme Court has directed that due care and caution should be exercised while dealing with cases which prima facie appeared to be frivolous and vexatious and in the backdrop of matrimonial dispute, it is held that in such cases, the Court dealing with petition for quashing of FIR should not restrict itself to reading the contents of FIR alone. It is held that in such cases parties often exercise due care and caution to draft FIRs in order to make out all the ingredients of the offence/s. The Hon'ble Supreme Court has, therefore, directed that the contents of the FIR should be viewed in the light of other surrounding circumstances. It is further held that general and omnibus allegations must be ignored. Similar view is also expressed in the matter of ***Dara Lakhshmi Narayana and***

others Vs. State of Telangana in S.LP (Cri.) No.16239/2024. The Hon'ble Supreme Court has again directed that due care and caution should be exercised by the High Courts in order to prevent abuse of criminal law.

8. Although the above judgments are delivered with respect to cases under Section 498-A of the IPC, we are of the considered opinion that ratio thereof can also be applied to the present case, which also arises out of matrimonial discord. In the present case also, all the family members of the estranged husband have been implicated. The allegations in the FIR need to be viewed in the backdrop of the fact that not a single independent witness could be found although the incident is alleged to have occurred in the Court premises during the court working hours. It is also important to note that the alleged incident is not stated to have occurred in a secluded or remote place in the Court premises. Perusal of spot panchnama demonstrates that spot of alleged incident is right in the middle of Court premises and immediately in front of main gate. The spot panchnama shows existence of two court buildings in the vicinity on the northern and eastern side and main gate exactly in front of the spot of alleged incident on the western side. The fact that independent witnesses were available is also apparent from the FIR where it is alleged that the victims were saved due to

intervention of general public. It is obvious that lawyers, police persons, stamp vendors, clerks etc., would be present at the relevant time and such persons who are regularly and continuously present in Court premises could be easily examined. It is in these backdrop that failure to find single independent witness assumes greater significance.

9. In the light of aforesaid, we are, therefore, of the considered opinion that the F.I.R. and consequent criminal prosecution against the applicants need to be quashed in the interest of justice. Hence, we pass the following order :-

ORDER

- (i) The application is allowed.
- (ii) F.I.R. No.74/2019 registered against applicants on 02.03.2019 with Dhule City Police Station, for the offences punishable under Sections 143, 147, 149, 323, 504, 506 and 427 of the Indian Penal Code and S.C.C. No.1566/2020 pending before the learned Chief Judicial Magistrate, Dhule are hereby quashed against applicants namely (i) Yashodabai Devidas Baisane, (ii) Devidas Narayan Baisane, (iii) Rajendra Devidas Baisane, (iv) Meena Ramesh More, (v) Anil Ananda Sonawane and (vi) Ashok Namdev Salunkhe.

(iii) The fees of learned Advocate Mr.Akram Inamdar appointed to represent respondent no.2, is quantified at Rs.5,000/- (Rupees Five Thousand), to be paid by the High Court Legal Services Sub-Committee, Aurangabad.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

sga/