

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1211 OF 2015

1. Ranjit s/o Mukundrao Halashe,
Age: 36 years, Occ: Business,
R/o. Prakash Nagar, Latur,
District Latur.
2. Mukundrao s/o Tukaram Halashe,
Age: 65 years, Occ: Business,
R/o. As above.
3. Sow. Kusum w/o Mukundrao Halashe,
Age: 62 years, Occ: Retired Teacher,
R/o. As above.
4. Kumari Anju d/o Mukund Halashe,
Age: 28 years, Occ: Household,
R/o. As above.
5. Kumari Manju d/o Mukund Halashe,
Age: 28 years, Occ: Household,
R/o. As above.
6. Kumari Gayatri d/o Mukund Halashe,
Age: 34 years, Occ: Household,
R/o. As above. ...Petitioners

versus

1. Sow. Sonali w/o Ranjit Halashe,
Age: 22 years, Occ: Household,
R/o. Prakash Nagar, Latur
at present as per complaint
House No.131, Building No. 11,
Hingoli, District Hingoli.
2. The State of Maharashtra. ...Respondents

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Mr. Dhananjay S. Kulkarni, Advocate for petitioners
Mr. S.N. Morampalle, A.P.P. for respondent/State
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CORAM : N.W. SAMBRE, J.

DATE : 14th OCTOBER, 2015

ORAL ORDER :

Heard Mr. Kulkarni, learned Counsel for the petitioners.

2. This petition takes exception to the order passed by learned Additional Sessions Judge, Hingoli in Criminal Appeal No. 15/2015 on 12/08/2015, dismissing the said appeal preferred by appellants/respondents herein questioning the order dated 23/03/2015 passed by learned Judicial Magistrate, First Class (Court No. 1), Hingoli in Criminal Misc. Application No. 2/2015.

3. The learned magistrate by an order dated 23/03/2015 has rejected the application preferred by the petitioners herein raising the ground of tenability of the proceedings under the provisions of Protection of Women from Domestic Violence Act, 2005 at Hingoli.

4. Mr. Kulkarni, learned Counsel for the petitioners, while questioning the legality and validity of both the orders, has invited attention of this Court to the provisions of Section 12 of the Act so as to canvass that in absence of report of the Protection Officer/Service provider, the proceedings before the Magistrate are not tenable.

5. It is required to be noted that, while dealing with the proceedings under the Protection of Women from Domestic Violence Act, 2005 (for short "The Act"), Section 27 of the Act provides for jurisdiction of the Court. Section 27 of the said Act reads thus :

“ 27. Jurisdiction.—

(1) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which—

(a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or

(b) the respondent resides or carries on business or is employed; or

(c) the cause of action has arisen, shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act.

(2) Any order made this Act shall be enforceable throughout India.”

6. Upon perusal of the observations made by both the Courts below, it is noted that the applicant before the learned Magistrate has in clear terms stated that as her parents were working somewhere, hence she was temporarily residing with her uncle at Hingoli, who was serving in Panchayat Samiti. The said statement was substantiated by an affidavit of the uncle of the applicant therein and in my opinion, the same satisfied the requirements of Section 27 of the Act.

7. Reliance is placed by learned Counsel for the petitioners on the judgment of the Supreme Court in the matter of ***Bhura Ram and others vs. State of Rajasthan and another*** reported in ***AIR 2008 SC 2666*** and in the matter of ***Bhagwan Das and another vs. Kamal Abrol and others*** reported in ***AIR 2005 SC 2583*** so as to canvass that place of residence or cause of action can be taken into account, would be hardly any assistance, in the back ground of scheme of Section 27 of the Act. As such, no case for interference is made out. The present petition fails, stands dismissed.

[N.W. SAMBRE, J.]