

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 342 OF 2015

Smt. Suman Satyanarayan Joshi

...Applicant

Versus

Smt. Pushpa Surendra Sharma &
Ors.

...Respondents

Mr. Sandeep Singh for the Applicant

Mr. V.B.K. Deshmukh, APP for Respondent No.3-
State.

CORAM:-M.L. TAHALIYANI, J.

DATED :8th JULY, 2015.

P.C.

Admit. Heard finally.

2. This is application for quashing the proceedings pending in the 4th Court of Metropolitan Magistrate, Girgaon, Mumbai vide Criminal Application No.4353/SS/2014 under Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as 'the Act'). The Applicant before this Court is the sister-in-law of the aggrieved person. She has not filed any reply in the Court of Magistrate and has directly approached this Court for quashing.

3. In my view at the first instance a Respondent in a case under the Act may approach the Trial Magistrate for dropping the proceedings on the ground that there was no prima facie case against the Respondent for proceeding further. If the Magistrate refuses to give any relief it is always open to the Respondents to move the High Court.

4. In the present case the Applicant shall move the Trial Magistrate by filing her reply and by demonstrating that there was no prima facie case against her. The Magistrate obviously will be at liberty to drop the proceedings if the complaint does not make out a prima facie case.

5. Incidentally it may be mentioned here that the Magistrate dealing with the cases under the Act shall note that the issuance of notices mechanically in the cases under the Act is not proper and it shall be duty of the Magistrate to examine the complaint minutely to see as to whether notices can be issued to the respondent and his family members as prayed. Only because an application is filed, the notice will not follow.

6. It is also necessary to be mentioned here that the persons against whom such notices have been issued in a case under the Act are always at liberty to move the same Magistrate for dropping the proceedings, if the complaint made under section 12 of the Act does not make out a prima facie case to hold enquiry against the person whom the notice has been issued.

7. With these observations the present application stands dismissed. The Applicant is at liberty to move the Magistrate for dropping the proceedings.

(JUDGE)