

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

CRIMINAL APPLICATION NO.1046 OF 2015

Ayush Ajaykumar Singhal & Ors.

...Applicants

Versus

Pallavi Ayush Singhal & Anr.

...Respondents

.....

Mr. Aditya Barthakar i/b. Mr. Asgarali S.A. Shaikh for the
Applicants.

Ms G.P. Mulekar, APP for Respondent No.2-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 2nd DECEMBER, 2015.

P. C. :

This is an application under section 482 of the Criminal Procedure Code for quashing the proceedings in Criminal Misc. Application No.5336 of 2014 filed under the Protection of Women from the Domestic Violence Act, 2005 (hereafter referred to as 'the D.V. Act') pending on the file of the learned Judicial Magistrate, First Class, Court No.8, Pune.

2. The grievance of the Applicants is that the learned Trial Judge as well as the Sessions Judge have erred in granting interim maintenance. The learned counsel for the Applicants has drawn my

attention to para 26 of the application wherein he has submitted that the Respondent No.1 has suppressed the material facts, has not produced the relevant documents and has not substantiated the allegations made in the application. He further submits that filing of such application is nothing but abuse of process of law and hence, the said proceedings under the Protection of Women from the Domestic Violence Act need to be quashed.

3. I have perused the records and considered the submissions advanced by the learned counsel for the Applicants. The averments made in para 26 of the application as well as the grounds stated in the application indicate that quashing is sought on the premise that:-

(i) The Respondent No.1 has not produced any document before the Trial Court evidencing any act of domestic violence committed by the Applicants or informed the Trial Court that she was working after marriage.

(ii) The Respondent No.1 had also suppressed the fact that she had received the summons from the District Judge, Family Court, Faridabad and she had refused to accept the same.

(iii) The Respondent No.1 had not produced medical

report and prescriptions detailing the injuries sustained by her to substantiate that she had jumped out of moving local train in her attempt to commit suicide in Kurla.

(iv) The Respondent No.1 had also not informed the Court the name of the Doctor and name of the Hospital, wherein she was taken and treated or the name of the police officer or railway police, who had drawn the report.

(v) The Respondent No.1 goes to the very root of the litigation initiated by the Respondent No.1 against the Applicants.

(vi) The allegations made in the application are inherently improbable.

(vii) No prima facie case is made out for involving beneficial provisions of the D.V. Act.

(viii) No domestic relationship between the Applicants and the Respondent Nos. 2 to 5.

(ix) The application under the D.V. Act is filed with malafide intention and amounts to abuse of process of law.

4. The extent and objective and reasons of the D.V. Act makes

it clear that the Domestic Violence Act was enacted “to provide a remedy under the civil law, which is intended to protect a woman from being victim of the domestic violence and to prevent the occurrence of the domestic violence in the society. Section 12 of the Act enable the aggrieved person or any other person on behalf of the aggrieved person to present an application to the Magistrate to seek one or more reliefs under the Act. Section 17 of the Act provides for right of an aggrieved person to reside in shared household. Section 18 provides for protection orders and empowers the Magistrate, after giving the aggrieved person and the respondent an opportunity of being heard and on being prima facie satisfied that the domestic violence has taken place or is likely to take place, pass a protection order in favour of the aggrieved person and prohibit the respondent from committing any acts specified under clause (a) to clause (g) of the section 18. Section 19 provides for residential orders. Whereas section 20 empowers the Court to direct the Respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and child of the aggrieved person as a result of domestic violence and such relief would include the maintenance for the aggrieved person and her child, and in addition to the reliefs specified in clause (a) to (c), the relief would also include the maintenance for the aggrieved person as

well as for her children. Sections 21 and 22 dealing with custody orders and compensation orders respectively whereas section 23 empowers the Court to grant interim orders.

5. In the instant case, the records reveal that the Respondent No.1 and the Applicant No.1 were married on 5.1.2013. The marital dispute between them led to filing of several proceedings. Criminal Misc. Application No.5336 of 2014 is one of such proceedings filed by the Respondent No.2 under section 12 of the Domestic Violence Act against the Applicant No.1 and his family members, wherein the Applicant has sought protection under clause (a) to (e) of section 18, residential order under section 19 (f) of the Act. The Applicant had sought ad-interim relief in respect of residential order, which has been granted by the trial court and confirmed by the Sessions Court.

6. The averments and allegations in the application prima facie reveal that the Respondent No.1 is an aggrieved person and is subjected to domestic violence within the meaning of section 3 of the Domestic Violence Act. The application is pending before the learned Magistrate and the trial has not yet commenced. Needless to state that these averments and the allegations made in the application will have

to be proved and tested on merits at the appropriate stage. Suffice it to say that at this stage, the Court cannot go into the veracity and genuineness of the averments /allegations and the application cannot be dismissed on a presumption that the allegations are false or that the application is filed with malafide intention.

7. Consequently, the application has no merits and is hereby dismissed.

(ANUJA PRABHUDESSAI, J.)