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

CRIMINAL APPLICATION NO.2247 OF 2016

Ibrahim Riyaj Bepari
(unsound mind person)
Through his Natural Guardian
Riyaj Osman Bepari,
Age: 60 years,
R/o. Plot No. 32, Ghorpadi Gaon,
Tq. and Dist. Pune & ors ..APPLICANTS

VERSUS

The State of Maharashtra,
Through its Police Station
Murum, Tq. Omerga,
Dist. Osmanabad & anr ..RESPONDENTS

Mr H.P. Randhir, Advocate for applicants;
Mr N.T. Bhagat, A.P.P. for respondent No.1;
Mr D.G. Kamble, Advocate for respondent No.2

CORAM : N.W. SAMBRE, J.

DATE : 19th OCTOBER, 2016

ORAL ORDER :

Present application is restricted by the
applicants to the extent of prayer in ordering
confinement of the petition moved under Section 12
of the Protection of Women from Domestic Violence
Act (for short, 'D.V. Act') being Petition NO. 159

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of 2010 to D.V. Application No. 55 of 2016 seeking reliefs under Sections 16 to 18 of the D.V. Act, as against original respondent Nos. 1 to 3 i.e. husband, father in law and mother in law. According to learned Counsel for the applicants, original respondent Nos. 4 to 9 are married sisters, who had no connection with the issue in question, particularly as is raised in the application under the provisions of D.V. Act. While inviting attention of this Court to the judgment of Apex Court in the matter of **Ashish Dixit and others vs State of U.P. and Anr** reported in **AIR 2013 SC 1077**, learned Counsel for the applicants would urge that the object of D.V. Act could be achieved even by the proceedings against husband and in laws and other parties are not necessary parties to the proceedings.

2. Per contra, Mr. D.G. Kamble, learned Counsel for respondent No.2 would submit that respondent Nos. 4 to 9 are resident of same district/place and are married sisters of

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respondent No.1 and daughters of original respondent Nos. 2 and 3. There are specific allegations against these respondents and as such, they are necessary parties to the proceedings.

3. Having bestowed my thoughts to the submissions made, it is required to be noted that respondent Nos. 4 to 9 appears to be married sisters but for respondent No.4. So far as respondent No.4 is concerned, perusal of the complaint reveals that against respondent No.4 or against rest of the respondents but for vague allegations, hardly any specific attributions or allegations are made in the complaint under D.V. Act.

4. In my opinion, the record as is placed by learned Counsel for the said respondents-present applicants on the judgment of Apex Court in the matter of **Ashish Dixit** (supra) is squarely covering the issue as is sought to be raised. Paragraph Nos. 3,4 and 5 thereof, read thus :

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"3. In the petition filed by respondent No. 2, apart from arraying her husband and her parents-in-law as parties to the proceedings, has included all and sundry, as respondents. To say the least, she has even alleged certain actions said to have been done by the tenant whose name is not even known to her.

4. In a matter of this nature, we are of the opinion that the High Court at least should have directed that the petition filed by respondent No. 2 be confined to her husband as also her parents-in-law and should not have allowed the impleadment of respondent Nos. 4 to 12.

5. In view of the above, while allowing this appeal in part, we quash the proceedings as against appellant Nos. 4 to 12 in Case No. 240 of 2007. We direct the learned Chief Judicial Magistrate, Agra to proceed with the aforesaid case; only against the husband i.e. Shri Ashish Dixit s/o Padmakar Datt Sharma, her father-in-law Shri Padmakar Datt Sharma S/o late Pt. Diwakar Dutt Sharma and Smt. Girja Dixit, W/o Shri Padmakar Dutt Sharma, her mother-in-law."

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5. As such, in view of the fact that original respondent Nos. 4 to 9 are not required to be added as necessary parties to the proceedings under D.V. Act and there are, as such, no specific attributions or allegations against them, prayer of the applicants-original respondent Nos. 4 to 9 needs to be allowed. As such, I propose to pass the following order.

: O R D E R :

The complaint being D.V. Application No. 55 of 2015 filed under the provisions of Section 12 of the Protection of Women from Domestic Violence Act is ordered to be confined to original respondent Nos. 1 to 3. As such, criminal application stands allowed in above terms.

(N.W. SAMBRE, J.)