

IN THE HIGH COURT OF BOMBAY AT GOA**CRIMINAL REVISION APPLICATION NOS.15 & 16 OF
2016****CRIMINAL REVISION APPLICATION NO.15 OF 2016**

SHRI. RAYA KARAPURKAR ... Petitioner

Versus

MS. VINITA U. GAWDE AND ANR. ... Respondents

AND**CRIMINAL REVISION APPLICATION NO.16 OF 2016**

SMT. SUSHMA KARAPURKARPetitioner

Versus

MS. VINITA U. GAWDE & ANR.Respondents

Shri Vivek Angelo Rodrigues, Advocate under
legal aid scheme for the Petitioner.

Coram:- C. V. BHADANG, J.**Date:- 22nd June, 2016****ORAL ORDER:**

Heard learned Counsel for the
petitioner.

2. Both these criminal revision
applications challenge the judgment and order
dated 6/02/2016 passed by the learned Sessions
Judge in Criminal Appeal No.122/2014 by which
the order dated 5/10/2013 passed by the learned
Judicial Magistrate First Class, Mapusa in
Criminal Case No.OA/682/S/DVA/2012/A/F has been

confirmed. By the impugned order the learned Magistrate has refused to dismiss the complaint filed by the respondent no.1 Ms. Vinita Gawde filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (Act, for short).

3. As the petitions involve common and connected questions of law and fact, they are being disposed off by this common order.

4. The petitioners have styled the respondent no.1 (complainant) as Ms. Vinita Gawde, although she claims to be Mrs. Riya Karapurkar. According to the complainant, she was married with Raya Karapurkar on 21/03/2010. The parties have a son born out of the wedlock. Sushma Karapurkar is the mother of Raya Karapurkar and the mother-in-law of the complainant Riya. After the marriage, disputes arose between the parties wherein she was subjected to various acts of domestic violence.

According to the complainant on 3/07/2012 at about 10.15 p.m. the complainant asked Raya Karapurkar, as to when he would be getting the marriage registered as promised. It was claimed that Raya told the complainant to withdraw the case filed by her first and thereafter he would get the marriage registered. The complainant claimed that she would withdraw the complaint only after the marriage was registered. On account of this dispute the complainant was asked to get out of the house. The following morning she returned to her maternal house and since then she is staying at her maternal house.

5. The complainant filed the complaint under Section 12 of the Act on 19/10/2012 seeking various reliefs which case is pending before the learned Judicial Magistrate First Class at Mapusa. In the said complaint the petitioners herein filed separate application at Exhibits 17, 18 & 21 seeking dismissal of the complaint. It was claimed that the complaint

was not maintainable as there was no domestic relationship between the parties. It was contended that at the time of the marriage the complainant was minor and the petitioner Raya was induced to enter into the relationship. It was claimed that there is no civil registration of the marriage. It was next contended that there is a delay of more than a year in filing the complaint. Reliance was placed on the decision of the Hon'ble Supreme Court in the case of ***Inderjit Singh Grewal V/s. State of Punjab & Anr.*** reported in ***(2011) 12 SCC 588*** in order to contend that, in view of the provisions of Section 468 of the Criminal Procedure Code, the complaint, of the present nature, can only be filed within a period of one year from the date of the alleged incident of domestic violence. The complaint is barred by time.

6. The applications were opposed on behalf of the complainant.

7. The learned Magistrate by an order dated 5/10/2013 has rejected all the three applications which were challenged by the petitioners before the learned Sessions Judge in Criminal Appeal No.122/2014. The learned Sessions Judge has dismissed the appeal by the impugned judgment and order, which brings the petitioners to this Court.

8. It is submitted by the learned Counsel for the petitioners that the complainant was a minor on the date on which the religious ceremonies in the nature of marriage were gone into. He, points out that there is no civil registration of the marriage as such and in the absence of there being any domestic relationship between the parties, the complaint was not maintainable as the marriage itself was a fraud. The learned Counsel also submits that there is no material as to the date on which the last incident of alleged domestic violence had taken place and, as such, the complaint was barred by

limitation.

9. I have considered the circumstances and the submissions made and I have carefully gone through the orders passed by the learned Trial Court as also the learned Sessions Judge.

10. At the outset it is necessary to mention that under Section 2(f) of the said Act "domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together, in a shared household, when they are related by consanguinity, marriage or through a relationship in the nature of marriage, adoption or are family members living together as a joint family. It can thus be seen that the domestic relationship as contemplated under the Act takes into its sweep, "relationship in the nature of marriage" also. In the present case, it is not disputed that some ceremonies in the nature of marriage were gone into in the year 2010 and the

parties had lived together and have a son out of the relationship. If that be so, the complaint cannot be dismissed at the threshold on the ground of want of registration of the marriage as prayed or on the ground that the complainant was a minor on the date of the alleged marriage. Even so far as the ground of the limitation is concerned, the Courts below have found and to my mind rightly so, that as per complainant, last incident of the domestic violence was on 3/07/2012 and the complaint having been filed on 19/10/2012 was well within time.

11. I, thus, find that the impugned judgment and order do not require any interference. The Criminal Revision Applications are thus dismissed in limine. Needless to mention that the Magistrate shall not be influenced by any of the observations herein at the hearing of the complaint on merits.

C. V. BHADANG, J.

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