

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.266 OF 2016

Kamal Kishor Gupta & Ors.

... Applicants

Vs.

The State of Maharashtra

... Respondent

Ms.Nidhi S. Sharma for the Applicant

Mr.V.V. Gangurde, APP, for Respondent – State

Mr.Rajendra Shirodkar i/b Archit Sakhalkar for Resp. No.2

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **DECEMBER 2, 2016**

P.C.:

1. In this application, the husband, mother-in-law, father-in-law and sister-in-law, who are made accused in Criminal Miscellaneous Application No.173 of 2014, which is pending before the learned Additional Chief Metropolitan Magistrate, have approached this Court with a prayer that the proceedings of the said Criminal Miscellaneous Application No.173 of 2014 be quashed and set aside. The said application is made under section 12 of the Protection of Women from Domestic Violence Act, 2005 in which the Magistrate has passed interim order of maintenance in favour of the complainant/wife.

2. The learned Counsel for the applicants submitted that the respondent/wife has given a false story before the learned Magistrate. No

offence is made out from her application under section 12 of the Domestic Violence Act and hence, it is to be quashed and set aside. She also submitted that the applicants have good case on merits.

3. The learned Counsel for the respondent/wife has opposed the application.

4. Perused the application No.173 of 2014 which is preferred under section 12 of the Domestic Violence Act seeking protection and other reliefs from the Magistrate on the count of violence. At the time of quashing, the Court need not go into the merits of the matter but has to consider whether a *prima facie* case against the accused under the concerned section of the Act is made out or not? After going through the allegations made and the contentions raised in the original application, I am of the view that the proceedings cannot be quashed.

5. Hence, the application is dismissed.

(MRS.MRIDULA BHATKAR, J.)