

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1662 OF 2016

Mr. Sudhir Sakpal	...	Petitioner
vs.		
Reena Sirish Doshi & Anr.	...	Respondents

Mr. A.H.Ponda i/b. Mr. Sufian Quereshi, Advocate for the petitioner.
Ms. K.H.Rajani for respondent No.2.
Mr. A.R.Patil, APP, for the State.

CORAM: SMT. SADHANA S.JADHAV, J.
DATE : 17th June, 2016.

P.C.

Heard. Rule. Rule made returnable forthwith with the consent of the parties.

2. The petitioner seems to be respondent No.4 in Misc. Application No.33 of 2014 filed by the present respondent before the Court of Metropolitan magistrate, 61st Court at Kurla under the provisions of Protection of Women from Domestic Violence Act, 2005.

3. It is an admitted position that the present petitioner happens to be the husband of original respondent No.3. Respondent No.3 is the sister-in-law of the complainant i.e. she happens to be the sister of the husband of the complainant and the petitioner is married to respondent No.3 much

before the marriage of original complainant with respondent No.1.

4. The learned counsel for the respondent, at this stage, has initially raised a preliminary objection that the proceedings are of the year 2014 and it is at a belated stage that the present petitioner has approached this Court seeking the relief of quashing the proceedings against him in Misc. Application No.33 of 2014. In reply to the said preliminary objection, the learned counsel for the respondent has placed on record a copy of the order passed by the appellate Court on 12.9.2014 by which the appeal filed by the original respondent No.1 was admitted on 12.9.2014. The record and proceedings had been called by the appellate Court. The orders passed by the learned Magistrate as far as the quantum of maintenance to be granted to the complainant were modified by the appellate Court. The said appeal has been finally decided on 20.2.2016. The record and proceedings were retained in the appellate Court till 23.3.2016 and the present petition has been filed on 12.4.2016. In these circumstances, it cannot be said that there is a deliberate delay on the part of the petitioner to approach this Court and seek quashing of proceedings against him.

5. Perused the complaint. The allegations as far as the present Petition is concerned, are as follows :-

“That the Respondent No.1 had already fixed the date for the marriage and had paid some deposit amount. That the Applicant was shocked to see the Respondent No.3 and 4 at Arya Samaj Goregaon, Mumbai. When the Applicant asked the Respondent No.1 about the presence of Respondent No.3 and 4 at the above mentioned venue, the Respondent No.1 replied that he was afraid that Respondent No.3 (sister of Respondent No.1) might feel offended if he did not inform her about the marriage in advance and also he was afraid of her reaction regarding the same. The marriage between Respondent No.1 and the Applicant was performed as per Hindu Rites and Rituals wherein the Respondent No.3 and 4 as well as Respondent No.1's friends have signed as witnesses in the record books of the Arya Samaj, Goregaon, Mumbai.”

“That on 27-4-2012, evening the Respondent No.1 took the Applicant along with Respondent No.3 and 4 to Nasik to visit some temple. During the journey the Respondent No.1 only spoke with Respondent No.3 and neglected and isolated the Applicant completely. Later the Respondent No.3 and 4 proceeded further while Respondent No.1 took the Applicant to a hotel at Nasik Highway.”

“That the Respondent No.1 would allow Respondent No.3 and 4 to interfere in every household matter and lay down certain rules for the Applicant to follow during her stay at the matrimonial house.”

Apparently it can be said that there are no allegations of causing any domestic violence to the complainant at the hands of the present petitioner. In any case, he was a resident of Goregaon and, therefore, it cannot be said

that he was a member of the shared household between the complainant and respondent No.1.

5. The learned counsel for the petitioner fairly submits that he is in no way seeking the quashing of the proceedings against his wife i.e. original respondent No.3 as there are specific allegations against the original respondent No.3 i.e. wife of the petitioner. The prayer is restricted to the petitioner who is distantly related to the complainant.

6. Hence, in view of the allegations observed (supra), the continuation of the proceedings against the present petitioner would be an abuse of process of law and hence this Court is inclined to quash the proceedings. Against the present petitioner under the provisions of Protection of Women from Domestic Violence Act, 2005. It is made clear that the proceedings are quashed only to the extent of the present petitioner and the other accused shall neither claim parity nor seek the same observations as a defence for themselves.

7. In view of this, the Petition stands allowed in terms of prayer clause (a). Rule is made absolute. Petition stands disposed of.

8. The observations made hereinabove are restricted to the proceedings under the Protection of Women from Domestic Violence Act, 2005.
9. The learned trial Court shall proceed with the proceedings against other respondents in accordance with law.

(SMT.SADHANA S.JADHAV, J.)