

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

CRI. WRIT PETITION NO. 407 OF 2017

Shri Balaji Nivrutti Biradar

... Petitioner.

V/s.

Mrs. Rajashri Balaji Biradar & Anr.

... Respondents.

Mr. Sachin B. Chandan, Advocate for the Petitioner.

Mr. V. V. Gangurde, APP for the State.

CORAM : RAVINDRA V.GHUGE,J.

DATE : 21 MARCH, 2017

P.C. :

1 The Petitioner is aggrieved by the order dated 31.01.2014 passed by the trial court, thereby rejecting his application, invoking section 468 of Cr. P.C. for contending that the complaint filed by the respondent wife u/s. 12 of the Domestic Violence Act was barred by limitation. The petitioner is also aggrieved by the order/ judgment of the revisional court dated 29.12.2016 by which the criminal revision application no. 226 of 2014 has been dismissed.

2 I have heard the submissions of the learned counsel for the petitioner, who has strenuously criticized the impugned order.

3 It appears from the record that the petitioner and the respondent are husband and wife respectively and they appear to have got married on 14.05.2006 and, thereafter, started residing together. However, it is the contention of the petitioner that the respondent herself has contended that there was no relationship between both of them from 02.07.2009.

4 The complaint under section 12 of the Domestic Violence Act, 2005 was filed on 21.07.2011, which is filed after two years from the date of their alleged separation. The Petitioner, therefore, filed an application before the trial court and contended that by virtue of section 468 of the Cr.P.C., the complaint filed by the respondent wife is rendered untenable as it has been filed beyond limitation.

5 By order dated 31.01.2014, the trial court has rejected the said application by taking into account subsequent events that appear to have occurred after 02.07.2009. Such events have been narrated in paragraphs 4 and 5 of the impugned order dated 31.01.2014.

6 The revisional court while dealing with the revision petition filed by the petitioner has observed in paragraph nos. 10 and onwards that the events that took place after 02.07.2009 would indicate that the harassment of the wife continued on account of the conduct of the petitioner.

The bank loan taken for purchasing the flat was not being repaid as per the installments which the petitioner was supposed to pay. The MSEB electricity connection was disconnected since the petitioner failed to pay the monthly consumption charges. The respondent wife was required to live in the said flat without electricity and the bank officials were after her for recovery of the loan instalments since the petitioner had faltered. This situation continued over a period of time after the petitioner purportedly deserted her from 02.07.2009.

7 The petitioner has relied upon the judgment of this court in the matter of **Vijaya Vasant Sawant vs. Shubhangi Shivling Parab** - 2014 (2) Bom CR (Cri.) 575. I find that in this case the issue was with regard to the wife having left the matrimonial home in September, 2002 and there was no allegation of any nature whatsoever after September, 2002. In this backdrop, this court concluded that though the Domestic Violence Act came into force in 2006, the period of 3 years had passed after the wife left the matrimonial home on September, 2004 and there was no incident that had occurred between the wife and the husband or his relatives in this period of 3 years.

8 The petitioner has then relied upon the judgment of the Hon'ble Supreme Court in the matter of Inderjit Singh

Grewal vs. State of Punjab & Anr. - (2011) 12 Supreme Court Cases 588, wherein it is held that a complaint under the Domestic Violence Act could be filed within one year from the date of the incident that is said to have occurred.

9 In the instant case “02.07.2009” is the date from which the petitioner is said to have left the wife and never returned to the flat in which both of them were residing. The incidents that have occurred thereafter, on account of which the wife felt tortured, are with regard to the failure on the part of the petitioner in not paying the regular monthly installments of the loan taken for the purchase of the flat and the payment of the electricity bill. This was over a period of time when the wife was harassed by the authorities which has resulted in the dis-connection of the electricity supply. The bank officials started forcing her for recovery of the loan instalments. These subsequent events which appear to be a mixed question of facts and law, need to be investigated into. As such, it cannot be said in this case that the last incident between the petitioner and his wife had taken place only on 02.07.2009 and that no other incident has occurred thereafter, which would lead to the complaint being beyond limitation.

10 Considering the above, I do not find that the impugned order of the trial court and the judgment of the

Revisional Court could be termed as being perverse or erroneous.

11 This petition, being devoid of merits, is, therefore, dismissed.

(RAVINDRA V.GHUGE,J.)

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