

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

**CRIMINAL APPLICATION No. 41 OF 2017**

**Bhupinder Singh Sahni and Anr.**

**...Applicants**

**Vs.**

**The State of Maharashtra and Anr.**

**...Respondents**

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Ms. Chetna Karande i/b. Rajeev Sawant and Associates for Applicants

Mr. S.S.Pednekar, APP for the State

Mr. Deepak Chitnis i/b. M/s. Deepak Chitnis Chiparikar & Co. for Respondent No.2

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**CORAM : NITIN W. SAMBRE, J.**

**DATE: MARCH 19, 2018**

**P.C.**

1. Respondent No.2 in 2010 got married with the son of the Applicants and in an accident, he expired on 23<sup>rd</sup> January, 2015.
2. Respondent No.2 initiated proceedings under the provisions of the Protection of Women From Domestic Violence Act, 2005 (for short 'D.V. Act') vide case No.155/DV/2016 pending on the file of the Learned Metropolitan Magistrate, Bandra Court.
3. The Applicants, who are the in-laws of the Original Complainant, have questioned the proceedings on the following grounds:

- (a) that the Applicants are the aged parents of the deceased son and there is hardly any ancestral property received by the Applicants from which Respondent No.2 can claim any right under provisions of Section 18 and 20 of the D.V. Act;
- (b) They are the aged persons and the only son, who expired, was the care taker and in absence of him, it is expected from Non-Applicant-Respondent No.2 to take care of the aged parents, for which the non-applicant is not ready and willing;
- (c) that Respondent No.2- Complainant is highly qualified lady, earned for herself and, as such, the proceedings against the Applicants under the D.V. Act are not maintainable;
- (d) Apart from the above, a ground sought to be raised that on August 27, 2013, Respondent No.2 -Complainant parted the company of the Applicants and their deceased son and, as such, there is no domestic relationship. It is also tried to informed to the Court that the Non-Applicant – Respondent No.2 was directed to produce her income tax returns and address of her present place of employment, which she is duty bound. According to the learned counsel for the Applicants, as such, the proceedings under the D.V. Act are not maintainable, same are

liable to be quashed and set aside as Respondent No.2 is not in domestic relationship with the Applicants.

4. Per contra, the learned counsel for Respondent No.2 would urge that it is an admitted position that Respondent No.2 -Complainant under the D.V. Act is an highly qualified lady holding qualification of Ph.D. in Economics. It is further claimed that the Applicants have not left a single stone unturned way so as to see to it that the Non-Applicant does not get any employment. He submits that at each and every place including religious institution, the complaints are lodged against the non-applicant by making her life miserable. He would try to invite attention of this Court to the conditions on which the bail was granted to the Applicants which according to him are not complied with till date. He would further urge that upon plain reading of the provisions of the D.V. Act, it would be amply clear that once the relationship with the son, who expired on January 23, 2015 is not disputed, the presumption under the Act speaks of domestic relationship.

5. Considered the rival submissions. Amongst other, the submissions made qua the property which is held by the Applicants as that of their self acquired property, the source of income of the non-applicant- Respondent No.2 are the issues, which are in the form of defence to be raised by the Applicants before

the Learned Metropolitan Magistrate.

6. Once the relationship between Respondent No.2 as of their daughter-in-law is not disputed by the Applicants, the fact remains that Respondent No.2 has every right to invoke the provisions of the D.V. Act as all of them resided together.

7. So far as the submission qua the independent source of income of Respondent No.2 is concerned, it is always open for the Applicants to claim and establish that Respondent No.2 is earning the amount and the Applicants have never tried to arrest her attempt to get employment based on her qualification.

8. In the aforesaid background, the reliance placed by the learned counsel for the Applicants on the judgments of the Supreme Court in the matters of **S. R. Batra and Anr. Vs. Smt. Taruna Batra decided on 15.12.2006 in Civil Appeal No. 5837 of 2006 and Shumita Didi Sandhu Vs. Sanjay Singh Sandhu and Ors. Decided on 26.10.2010 in F.A.O. (OS) 341/2007** will be hardly any assistance as the Applicants have failed to demonstrate before this Court that the property in question, which is a subject matter of D.V. Proceedings is their self-acquired property. That being so, I hardly noticed any substance in the present application seeking quashing of the proceedings. Criminal application fails, as sun dismissed. Liberty to the Applicants to raise

all the issues before the Learned Metropolitan Magistrate in their defence at the final stage of the proceedings as the observations made herein are prima face and this Court has not examined the merits of the matter in depth.

**[NITIN W. SAMBRE, J.]**