

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO.288 OF 2018**

Sumaiya Naushad Ali Sayyed ... Applicant
Vs
Haseen Fatima Ansari and Ors. ... Respondents

...

Ms. Neetha Hira I/by Goldbricks Legal for the Applicant.
Mr. Khushanood AKH with Saeed Akhtar for the Respondent
Nos.1 and 2.
Mr. A.A.Palkar, APP for State.

CORAM :SANDEEP K. SHINDE J.
DATE : 3 OCTOER, 2018

P.C. :

The Applicant has questioned the correctness, legality and propriety of the order dated 27.3.2018 passed in Appeal No.295 of 2017 preferred under Section 29 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as '**D.V.Act**') .

2 The applicant is the complainant and Respondent No.1 is the sister-in-law and Respondent No.2 is the husband of Respondent No.1. The complaint is filed in the Court of Additional Chief Metropolitan Magistrate, Mazgav, Mumbai against the husband, mother-in-law and the Respondents herein under Sections

12,17,18,19,20,22 and 23 of the D.V.Act. The learned Magistrate after calling a family case report was pleased to issue notice to the Respondents vide order dated 23.3.2017. This order was challenged by the Respondents herein before the learned Sessions Judge in Appeal No.295 of 2017.

3 The subject appeal was allowed and the notice dated 23.3.2017 was quashed and set aside. As a result, now the complaint would proceed against the husband and the mother-in-law.

4 Heard the learned counsel for the applicant and the learned counsel for the Respondents. Perused the complaint and the order impugned in this Revision and also family case report submitted by the Protection Officer.

5 Admittedly, the Respondents herein, i.e., sister-in-law and her husband are residing at Andheri whereas the applicant is residing at Madanpura, Central Mumbai, Mumbai. Her husband is NRI and residing at USA. The learned counsel for the Applicant has taken me through the entire complaint and particularly, paragraphs 24,25,27,29 and 40. The complaint discloses that the applicant has

also filed police complaint on 2.6.2015 alleging that her husband has abandoned her and mother-in-law is trying to evict her from matrimonial home. Allegations against Respondent No.1 is that she took away her jewellery in connivance with her mother-in-law. The complaint also discloses that her husband has pronounced '*Talaq*' which she has declined to accept and has instituted case in Family Court being CC NO.B-49/2016 at Bandra in the month of February, 2016. Paragraph 51 of the complaint discloses that she has challenged the '*Talaq*' pronouncement by her husband.

6 Thus, after going through the averments made in the complaint, it is the applicant's case that she being a victim of polygamous marriage is suffering harassment at the hands of her husband and mother-in-law. Admittedly, the Respondents and the Applicant are not living in shared household. Allegations against the present Respondents are casual and general in nature and the report of the Protection Officer corroborates this fact.

7 The learned Appellate Court after examining the contents of the complaint has concluded that there is no domestic relationship

between the applicant and the Respondents. There is nothing in the order to hold that the order suffers either from illegality or impropriety.

8 The learned counsel for the Applicant admits that there is no domestic relationship between the Applicant and the Respondents in terms of provisions of Section 2(f) of the D.V. Act.

9 In view of this, Revision deserves no consideration. It is, accordingly, dismissed.

(SANDEEP K. SHINDE, J.)

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