

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**30 CRIMINAL WRIT PETITION NO. 1702 OF 2018**

1. Prabhakar s/o Karbhari Kambale,  
Age : 50 years, occu.: Agril & Social worker,
2. Vaishali w/o Prabhakar Kambale,  
Age : 45 years, Occu.: Household,

Both R/o.: Khirdi, Tal.: Shrirampur,  
District : Ahmednagar. ... PETITIONERS

VERSUS

Rupali w/o Rahul Kamble,  
Age : 24 years, Occu.: Household,  
R/o.: Kolhar Khurd, Tq. Rahuri,  
District : Ahmednagar ... RESPONDENT  
(Org. complainant)

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Mr. R. S. Kasar , Advocate for petitioners  
Mr. H. V. Dhage, Advocate for Respondent

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**CORAM : MANGESH S. PATIL, J.**

**DATE : 04.03.2019**

**ORAL JUDGMENT :-**

Heard. Rule. Rule is made returnable forthwith. The learned advocate for the respondent waives service. With the

consent of both the sides the matter is heard finally at the stage of admission.

2. In this proceeding under Articles 226 and 227 of the Constitution of India and also under Section 482 of the Criminal Procedure the petitioners who have been arrayed as respondent Nos. 4 and 5 in Criminal Miscellaneous Application No. 326 of 2018 as against whom the learned Magistrate has directed the notice to be issued in a proceeding under Section 12 of the Domestic Violence Act have approached this Court seeking quashment.

3. The learned advocate for the petitioners submits that since even according to the respondent they are only distant relatives of her husband and have been staying separately elsewhere, they cannot be said to be having any domestic relations with her within the meaning of Section 2 (f) of the D. V. Act and therefore, directing the notices to be issued against them is sheer abuse of the process of law. It has merely been

alleged that the present petitioners have deceived her to enter into the marriage by saying that her husband was in employment. Accepting the allegations at their face value, there are absolutely no allegations about the applicants having indulged in any Domestic Violence within the meaning of Section 3 and consequently the proceeding under Section 12 would not be maintainable.

4. The learned advocate for the respondent opposes the writ petition and submits that there are specific allegations about the petitioners having deceived her in entering into the wedlock. The fact about her husband suffering from mental illness was never disclosed to her and therefore, proceeding may not be quashed.

5. I have carefully gone through the complaint lodged by the respondent under Section 12 of the Domestic Violence Act. As is rightly pointed out by the learned advocate for the petitioners, even according to the respondent the petitioners are cousin parents-in-law and have been staying at village

Khirdi, Taluka Shrirampur, whereas her husband and parents-in-law have been stated to be resident of Fugewadi, Pune. There is absolutely no averment anywhere that the petitioners were sharing any household with her. It is a necessary ingredient for constituting a domestic relation between the petitioners on one hand and the husband on the other hand.

6. Similarly, going by the allegations, the only grievance that is made by the respondent is about petitioners having deceived her in solemnizing the marriage by not disclosing that her husband was suffering from mental illness. Accepting for the sake of argument the allegations to be true, still, it cannot be said that it would constitute a domestic violence within the meaning of Section 3 of the Domestic Violence Act.

7. Thus, ex facie, accepting the allegations in the complaint filed by the respondent under Section 12, there was apparently no Domestic Relation between the petitioners and her and even there are no allegations about the former having indulged in

any Domestic Violence under Section 3. In spite of that if the proceeding is allowed to be initiated and proceeded against the petitioners it would be a sheer abuse of the process of court. Hence the writ petition is allowed.

8. The proceeding initiated against the petitioners under Section 12 of the Domestic Violence Act is quashed and set aside.

9. Rule is made absolute in above terms.

**(MANGESH S. PATIL, J.)**

vsm/-