

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

CRIMINAL WRIT PETITION NO.1257 OF 2019

1. Mayuri w/o Rameshwar Markad
Age: 25 years, Occu.: Household & Agri.
R/o Mouje Bagadi, Tq. Gangapur,
Dist. Aurangabad.
2. Rameshwar s/o Jalindar Markad
Age: 30 years, Occu.: Agriculturist,
R/o Mouje Bagadi, Tq. Gangapur,
Dist. Aurangabad.
3. Jalindar s/o Shamrao Markad
Age: 48 years, Occu.: Agriculturist,
R/o Mouje Bagadi, Tq. Gangapur,
Dist. Aurangabad.
4. Kailas s/o Shivram Pawar
Age: 55 years, Occu.: Agriculturist.
R/o Mendhi Bhalgaon, Tq. Gangapur,
Dist. Aurangabad.
5. Sainath s/o Shivram Pawar
Age: 22 years, Occu.: Service
R/o Mendhi Bhalgaon, Tq. Gangapur,
Dist. Aurangabad.

... **PETITIONERS**

VERSUS

Sunita w/o Vikas Pawar
Age: 22 years, Occu.: Household
R/o C/o Vikram Eknath Nikam
Galli No.3, Gajanan Nagar, Garkheda
Parisar, Aurangabad

... **RESPONDENT**

.....
Mr. H. V. Tungar and Mr. H. B. Pawar, Advocates for petitioners.
Mr. S. A. Nirban and Mr. V.S. Bhale, Advocates for respondent.

.....
CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 03-02-2020

JUDGMENT :

. Rule. Rule is made returnable forthwith. Heard finally by consent of both the parties.

2. Present petition has been filed by original respondent Nos.4 to 8 for quashment of the entire proceedings in P.W.D.V.A. Application No.67 of 2019 filed before the learned Judicial Magistrate First Class, Aurangabad by present respondent. Petitioner No.1 is the sister-in-law (husband's sister) of the respondent. Petitioner No.2 is the husband of petitioner No.1. Petitioner No.3 is the father-in-law of petitioner No.1. Petitioner Nos.4 and 5 are the uncles of husband of respondent. The petitioners have contended that they have been unnecessarily dragged into the litigation. The marriage of petitioner No.1 with petitioner No.2 was solemnized in the year 2013. Petitioner Nos.1 to 3 are residing at Bagadi Tq. Gangapur, Dist. Aurangabad and they have not committed any act of violence against respondent. Petitioner Nos.4 and 5 are the real brothers of father-in-law of the respondent and they have separated from the father-in-law of the respondent prior to 25 years ago. They are residing separately as well as cultivating their lands separately. Only to harass the

husband and his relatives, especially the present petitioners, the said application has been filed. The monetary benefits can be claimed by the respondent only against the husband and therefore, they would be put to unnecessary harassment if the proceedings are continued. Hence, they prayed for quashment of the entire proceedings.

3. Heard learned Advocate Mr. H. V. Tungar and Mr. H. B. Pawar for petitioners and learned Advocate Mr. S. A. Nirban and Mr. V. S. Bhale for respondent.

4. In order to cut short it can be said that both the learned Advocates have argued in support of their respective contentions.

5. Perusal of the application which has been filed under Section 12 of the Domestic Violence Act by the present respondent would show that the allegations against the present petitioners are that they used to give pinching words and mentally harassing her by insulting her. As regards original respondent No.4 i.e. present petitioner No.1 is concerned, it is stated that, along with original respondent Nos.1 to 3, she used to assault the respondent by kicks and fist blows and assault by stick till 20-12-2017. This appears to be the exaggeration on the face of the record, because the respondent has not stated as to why the sister-in-law would come and stay with the father when already she is married and having children. In the normal course, she would be at her

matrimonial home. The documents on record produced by the petitioners would show that they were not residing in the matrimonial home of the respondent which was in fact, the shared household. Merely because the petitioners are the relatives of the husband that does not mean that they should be made as respondents in application under Domestic Violence Act. As regards petitioner Nos.2 to 5 are concerned, there are only omnibus statements. No particular and overt act is attributed. It would be futile exercise to ask the petitioners to face the application/litigation. The relief that has been claimed against the present petitioners is the protection from Domestic Violence Act. Admittedly, now the respondent is residing with her parents. Therefore, question of committing domestic violence against her is a rare possibility. As regards the other reliefs are concerned, they can be claimed from the husband and parents-in-law. Therefore, case is made out for exercising the constitutional powers of this Court under Articles 226 and 227 of the Constitution of India to quash the entire proceedings against the present petitioners. Hence, the following order :-

ORDER

- I) Writ petition stands allowed.
- II) The proceedings of P.W.D.V.A. Application No.67 of 2019 pending before the learned Judicial Magistrate First Class, Aurangabad is quashed against the present petitioners. It is clarified that the proceedings may proceed

against the other respondents.

III) Rule is made absolute in the above terms.

[SMT. VIBHA KANKANWADI, J.]

SCM