

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.88 OF 2019

ONEZA INTEKHAB ALAM MUNSHI)...APPLICANT

V/s.

SHIRIN RIAZ AHMED MUNSHI & ORS.)...RESPONDENTS

Mr.Amin Solkar a/w. Ms.Misbaah Solkar, Advocate for the Applicant.

Mr.Vincent D'Silva a/w. Mr.Sujit Mane, Advocate for Respondent Nos.1 and 2.

Mr.A.R.Patil, APP for the Respondent – State.

CORAM : A. M. BADAR, J.

DATE : 9th JANUARY 2020

P.C. :

1 By this application, the applicant, who happens to be respondent in an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005, is praying for quashing and setting aside the said proceedings bearing Miscellaneous

Application No.142 of 2018 pending on the file of the learned 3rd Joint Civil Judge, Vasai, District Palghar.

2 Heard the learned counsel appearing for the applicant. He vehemently argued that without there being an “adult male person” as a respondent, the sole female cannot be arraigned as a respondent in a proceeding under Section 12 of the Protection of Women from Domestic Violence Act, 2005. The learned counsel further argued that the Hon’ble Apex Court has not considered provisions of Article 15 of the Constitution of India while deciding the matter in between **Hiral P. Harsora and Others vs. Kusum Narottamdas Harsora and Others**¹. The learned counsel for the applicant argued that Article 15 deals with making of special provision for women and children by the State and therefore, the application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 preferred by respondents against the applicant, who happens to be daughter-in-law, is not maintainable.

1 LAW (SC)-2016-10-14

3 The learned counsel appearing for respondents strenuously urged that the position of law is crystallized by the Hon'ble Apex Court in the matter of **Hiral P. Harsora (supra)** and as Section 2(q) of the Protection of Women from Domestic Violence Act, 2005 is effaced from the statute book, being held ultra vires, there is no substance in the application.

4 I have considered the submissions so advanced and also perused the material placed before me.

5 In an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 filed by the mother-in-law and sister-in-law / respondents against the applicant herein, it is alleged that they were in domestic relationship with the applicant herein. Acts of domestic violence are also pleaded in the said application. In the said application, the present applicant who happens to be daughter-in-law, is arraigned as sole respondent.

6 In the matter of Hiral P. Harsora (supra) the Hon'ble Apex Court is pleased to declare that the words “adult male” in Section 2(q) of the Protection of Women from Domestic Violence Act, 2005 shall stand deleted and consequently, it is further declared that proviso to Section 2(q) of the said Act being rendered otiose, stands deleted.

7 In this view of the matter, there is no substance in the application. The application is, therefore, dismissed.

(A. M. BADAR, J.)