

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.202 OF 2018

Tushar Garg & Ors. ... **Applicants**
Versus
The State of Maharashtra ... **Respondent**

.....

Mr.Kiran Verma i/b. Rajeev Sawnt & Associates, Advocate for the Applicants.

Mr.S.V.Gavand, the Additional Public Prosecutor for the Respondent No.2/State.

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CORAM : A.M.BADAR J.

DATED : 20th FEBRUARY 2020.

P.C. :

1 By this application under Section 482 of the Code of Criminal Procedure, the applicants, who happen to be original respondents in an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as the “D.V.Act” for the sake of brevity) filed by respondent No.2 herein are praying for quashing and setting aside those proceedings.

2 Heard the learned Counsel appearing for the applicants/original respondents in the proceedings under the D.V.Act. He argued that till filing of the proceedings under the D.V.Act relationship between the parties was cordial. However, subsequently, the respondent No.2/an aggrieved person had lodged report alleging commission of offence under Section 498A of the Indian Penal Code etc. against the applicant No.1 herein and his relatives. It is further argued that record filed with the application would show that the respondent No.2 herein/an aggrieved person was having adulterous relationship with some other person. At the instance of the applicant No.1/husband, report of non-cognizable case was also registered in the matter. The learned Counsel for the applicants further argued that right from the year 2007, both daughters of the applicant No.1 and respondent No.2 are being maintained by the applicant No.1 and these two daughters are not residing with the respondent No.2 herein/an aggrieved person. Therefore, in submission of the learned Counsel for the applicants, proceedings under the D.V.Act needs to be quashed and set aside.

3 I have considered the submissions so advanced and also perused the application under Section 12 of the D.V.Act which is at page 119 onwards in the paper-book. In the said application, the respondent No.2 herein/an aggrieved person has made averments regarding commission of domestic violence on her by respondents therein i.e. present applicants. She has alleged about the fact that she is in domestic relationship with applicants herein. The application reflects commission of domestic violence while in domestic relationship with present applicants and, therefore, other aspects of the matter pails into insignificance.

4 At this juncture, it cannot be said that so-called adulterous relationship is a factor which requires quashing of the proceedings under the D.V.Act. It is a mere allegation which is not proved before any Court of law and moreover, that cannot be a ground of quashing the proceedings under the D.V.Act. One of the cited contention that the relationship were cordial cannot be accepted in the wake of averments in the proceedings under the D.V.Act.

5 No case for interference at the hands of this Court is made out. The application is, therefore, rejected.

(A.M.BADAR, J.)

**Raju D.
Gaikwad**

Digitally signed
by Raju D.
Gaikwad
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