

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1009/2018

1. N.D.RAGHAVAN

Aged about 71 years, Occ:retired
having his address at
New No.45,Old No.10,
Dr.Ranga Chari road, Mylapore
CHENNAI-600004.

2. Malathi RAGHAVAN

Aged about 69 years,
Occ:home maker,
having her address at
New No.45, old no.10,
Dr.Ranga Chari road,
Mylapore, CHENNAI 600 004

.... APPLICANTS.

VERSUS

1.MRS. AISHWARIYA SHARANYAN

Aged about 30 years, having
her address at flat no.1502/B,
Safal Twins, Sion Trombay
road, Deonar, Mumbai 400 088.

2.STATE OF MAHARASHTRA

.... RESPONDENTS.

.....

Mr.Amol J. Phoujdar for applicant.

Dr.Suneet Gupta for respondent No.1.

Mr.S.V.Gavand, APP for State/respondent no.2.

CORAM : A. M. BADAR, J.

DATE : 17TH JANUARY 2020.

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ORAL JUDGMENT:

1. Heard. Rule. Heard finally.
2. This is an application under Section 482 of the Criminal Procedure Code whereby the applicants/original respondent Nos.2 and 3, who happens to be father-in-law and mother-in-law of respondent no.1 are praying for quashing and setting aside the proceedings initiated by respondent no.1 under Section 12 of the 'Protection of Women from Domestic Violence, 2005' against them.
3. Learned counsel for applicants argued that even if averments made in the application under Section 12 of the 'Protection of Women from Domestic Violence, 2005' (D.V. Act for the sake of brevity) are accepted as they are then also

it can not be said that respondent no.1/original applicant is an aggrieved person qua the applicants/original respondent Nos.2 and 3. In his submission careful scrutiny of the entire application under Section 12 of the D.V. Act makes it clear that the present applicants were never in domestic relationship with respondent No.1/aggrieved person. He further argued that all allegations regarding domestic violence qua the present applicants/original respondent nos.2 and 3 are as vague as they can be and no specific relief is claimed against them. It is further argued that there is an inordinate delay of 2 years in preferring the application under Section 12 of the D.V.Act and therefore, those proceedings needs to be quashed and set aside. In submission of learned counsel for applicants/applicant no.1 was serving as a Judicial Officer in various capacities all over India. Thereafter he was posted at Bangalore as Vice Chairman of Central Administrative Tribunal, Bangalore, from where he vacated the official residence on 25.5.2011.

4. To counter these submissions, on behalf of respondent no.1 it is argued that, the allegations made by the applicant in paragraph Nos. 12, 15, 23 and 30 makes it clear that applicants herein, were in domestic relationship with respondent no.1. Learned counsel further argued that though the applicants herein were residing separately and in the vicinity of residence of respondent no.1 with her husband but for all practical purpose they were residing together. The applicants herein were residing at a distance which can be travelled in 5 minutes from the residence of couple. The averments in the application indicates that applicants herein were in domestic relationship with respondent no.1 and they had indulged in domestic violence. Therefore, according to the learned counsel for respondent no.1 herein, application is liable to be rejected.

5. I have considered the submissions so advanced and also perused the pleadings made in the application under Section

12 of the D.V. Act by applicant/respondent no.1 herein. By filing the said application, she claimed for monetary reliefs as per provisions of Section 20 of the D.V. Act.

6. Section 2(a) of the D.V. Act defines the term ‘aggrieved person’ which reads thus,

a) “aggrieved person” means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent.

7. It is thus, clear that for becoming aggrieved person, a woman is required to be in domestic relationship with the respondents in her application u/s 12 of the D.V. Act. In addition she is also required to demonstrate by pleading that she has been subjected to any act of domestic violence by respondents. It is thus clear that, in order to entertain the application u/s 12 of the D.V. Act validly two factors viz. domestic relationship and commission of domestic violence are

required to be pleaded.

8. The term ‘domestic relationship’ defined by Section 2(f) of the D.V. Act and it reads thus;

(f) “domestic relationship” means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family;

9. The term of ‘shared household’ found in the definition of ‘domestic relationship’ is also defined by Section 2(s) of the D.V.Act and it reads thus;

(s) “shared household” means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household

which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household.

10. Conjoint reading of these provisions of the D.V. Act, makes it clear that, in order to entertain an application under Section 12 of the D.V. Act validly, such application must contain pleadings to demonstrate that applicant/woman was living or at any point of time lived together in a shared household with the respondents. She is further required to plead that she as well as the respondents in her application are related by consanguinity marriage or through relationship in the nature of marriage/adoption or that they were living together as a member of joint family. It is further required to be pleaded that applicant/woman at least at any stage has lived together with respondents in a shared household.

11. On these parameters which are necessary for validly entertaining application u/s 12 of the D.V. Act, if the

application is perused then, in paragraph 8 of her application, original applicant/aggrieved person has contended that she married original respondent no.1 N.R. Sharanyan on 2nd June 2010 and after her marriage she shifted to flat no.45, Ranga road, Mylapore, Chennai. In the entire body of her application, applicant has not made whisper alleging the fact that she alongwith her in-laws i.e. present applicants ever shared residential house by living together with them.

12. No doubt the applicant has made allegations that her husband had travelled extensively with her mother-in-law for the purpose of shooting of motion picture, in the night between 1st and 2nd August 2014 the respondents became violent and physically assaulted her as well as forcibly snatched her daughter from her, her pleadings are absolutely silent about her in-laws living together in a shared household. In para 9 of her pleadings, she averred that he was ill treated in respondent's home and was not given basic privacy. She further pleaded that her mother-in-law inquired about bed

room activities from her husband. Even if all these averments are construed in proper manner, these averments never indicate that the original applicant was living together with her in laws in a shared household. To crown this all, during the course of oral submissions, learned counsel appearing for respondent no.1 herein/original applicant has argued that the original respondent nos.2 and 3 were no doubt residing separately in the vicinity of the house of the aggrieved person and her husband but for all practical purposes they were residing together. This oral argument by itself indicates that present applicants were not sharing domestic relationship with applicant by living together with her in her household.

13. Once it is held that pleadings made by the original applicant in her application under Section 12 of the Domestic Violence Act fails to demonstrate that applicants herein/original respondent nos.2 and 3 were in domestic relationship with original applicant then continuation of proceedings against them certainly amount to abuse of process of Court and

interest of justice, proceedings against them are certainly required to be quashed and set aside. In the result, following order.

ORDER

- i) Application is allowed.
- ii) Rule is made absolute in terms of prayer clause (b).

(A. M. BADAR, J.)