

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.6427 OF 2019

**RUPESH SURESH PALANDE
AND ORS.**

... PETITIONERS.

VERSUS

SMITIKA RUPESH PALANDE & ORS. ... RESPONDENTS.

Mr.Tejesh Dande a/w Bharat Gadhavi, Advocates i/b Grisham
Lad, for the Petitioner.

Mr.Raju M. Yamgar for respondent nos.1 and 2.

Mr.A.R.Kapadnis, Additional Public Prosecutor for the State.

CORAM : A. M. BADAR, J.

DATE : 6TH MARCH 2020.

P.C.:

1. By this petition under Section 482 of the Criminal
Procedure Code as well as under Article 227 of the
Constitution of India, the petitioners/original respondents in a
proceedings under Section 12 of the 'Protection of Women

from Domestic Violence Act, 2005, (to be referred to as the 'Domestic Violence Act for the sake of brevity) initiated by the respondent no.1 herein are praying for quashing and setting aside those proceedings which are registered as Criminal Miscellaneous Application No.214 of 2019 and pending before the learned Judicial Magistrate, First Class, Mahad.

2. Heard learned counsel for the petitioners/original respondents. It is argued on behalf of the petitioners that the marriage of petitioner no.1 with the contesting respondent no.1-Mrs.Smitika Rupesh Palande was solemnized on 01.01.2013. Thereafter, on 15.4.2015 there was a decree of Divorce by mutual consent. According to the learned counsel for the petitioners then on 28.2.2019 petitioner no.1/husband had preferred an application for custody of the minor child Vedant and this Court vide order dated 22.04.2019 is pleased to expedite those proceedings. On 16.9.2019 appeal

challenging Decree of Divorce by mutual consent came to be filed by the contesting respondent no.1. Then on 17.10.2019, Consent Terms came to be filed in a custody proceedings but subsequently on 11.11.2019, respondent herein preferred an application for withdrawal of those Consent Terms. On the backdrop of these events, according to the learned counsel for the petitioner/original respondent proceedings under Section 12 of the Domestic Violence Act came to be filed on 17.6.2019 by the respondent no.1 herein. By taking me through the pleadings in application under Section 12 of the Domestic Violence Act, learned counsel for the petitioners argued that the allegations are as vague as they can be. No specific instances are quoted in the application. It is further argued that the application under Section 12 of the Domestic Violence Act came to be filed only because petitioner no.1 had preferred an application for custody of the minor child. Hence, in submissions of learned counsel for the petitioners/original respondent, proceedings u/s 12 of the

Domestic Violence Act amounts to abuse of process of the court and therefore, needs to be quashed.

3. I have also heard the learned counsel for the respondent nos.1 and 2. I have considered the submissions so made and also perused the application u/s 12 of the Domestic Violence Act filed by the respondent no.1 herein/wife. Perusal of the said application goes to show that there are specific averments regarding domestic violence committed on the aggrieved person by the petitioners herein. There are also averments regarding domestic relationship between the aggrieved person and the original respondents. The averments made in the application do constitute acts of domestic violence and therefore, it can not be said that the proceedings initiated by the respondent no.1 herein u/s 12 of the Domestic Violence Act needs to be quashed as those amounts to abuse of process of the court. The petition is devoid of merits and therefore, same is dismissed. Needless

to mention that these observations are prima facie in nature and shall have no bearing on the trial of the case.

(A. M. BADAR, J.)