

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 847 OF 2020

1. Akshay Mukesh Lokchandani,
Age : 24 Years, Occu. Business
2. Mukesh Rameshlal Lokchandani,
Age : 55 Years, Occ. Business,
3. Komal Mukesh Lokchandani,
Age : 53 Yeeears, Occ. Household,

Applicants No. 1,2,3 residing at
New Bajar Market, Shejwal Vasti,
Shirdi Tq. Rahta Dist. Ahmednagar.
4. Govinda Mukesh Lokchandani,
Age : 27 Years, Occ. Business
5. Lisha Govinda Lokchandani,
Age : 20 Years, Occ. Household,

Applicant Nos. 4,5 residing at Bhimnagar,
Kalikanagar, Shirdi Tq. Rahta
Dist. Ahmednagar.
6. Harish Motawani,
Age : 60 Years, Occ. Services
Resided at Saikrupa Niwas, Vidyanagar,
Sangamner, Tq. Sangamner,
Dist. Ahmednagar.
7. Divya Naresh Aadwani,
Age : 28 Years, Occu. Household
8. Naresh Adawani,
Age : 31 Years, Occ. Business,

Applicant NO.7, 8 residing at A-12,
Sukhakarta Palace, Pune Road,
R.T.O. Colony, Bodhale Nagar,

Nashik.

9. Jayant Mohanlal Bhatiya,
Age : 30 Years, Occ. Service,
Resided at Shri Ram Nagar,
Kankuri Road,
Shirdi Tq. Rahta Dist. Ahmednagar. .. Applicants.

Versus

1. Yogita Akshay Lokchandani,
Age : 23 Years, Occ. Teacher,
R/o. Lakhamichand Popatmaal Nagvani
Shiv Road, Sai Park, E- Block,
Shirdi Sakuri Shiv, Sakuri
Tq. Rahata, Dist. Ahmednagar.
2. The State of Maharashtra .. Respondents

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Advocate for the Applicants : Mrs. S.G. Sonawane
Advocate for Respondent No.1 : Mr. Amol S. Gandhi
A.P.P. for Respondent-State : Ms. R. P. Gour
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CORAM : SURENDRA P. TAVADE, J.

**Reserved on : 11.08.2021
Pronounced on : 21.08.2021**

PER COURT :-

The applicants have filed this application for quashing and setting-aside the proceeding of Protection of Women From Domestic Violence Act, 2005 (hereinafter called and referred as the ' D.V. Act'). bearing No. 297 of 2019 pending before the learned Judicial Magistrate First Class, Rahata, Taluka Rahata, District Ahmednagar under Section 12, 18, 19, 19(8) 20 and 22 of

D.V. Act, 2005.

2. It is contended that respondent No.1 filed complaint under Sections 12, 18, 19, 19(8) , 20 and 22 of D.V. Act, 2005 against present applicants. It is an admitted fact that applicant No.1 married to respondent No.1 on 10th July, 2018. They have no issue out of the said wed-lock. It is alleged against the applicants that they caused ill-treatment to respondent No.1. It is alleged that applicants No.2 and 3 demanded Rs. 25,00,000/- from the parents of respondent No.1. It is alleged that respondent No.1 was driven out of matrimonial house. It is contended that allegations made by respondent No.1 in the D.V.Act Application No. 297 of 2019 are false and frivolous. It is contended that applicants No. 2 and 3 are aged persons. They are suffering from various diseases. They are taking treatment in the hospital. It is contended that applicant No.4 is brother-in-law and applicant No.5 is wife of applicant No.4. Both of them are not concerned with family affairs of applicant No.1. They are residing separately. It is contended that applicant No.6 is maternal uncle of applicant No.1. He is also residing separately. No specific role is attributed to applicant No.6. It is contended that applicants No.4 and 6 are residing separately. They never resided with respondent No.1 in shared house. It is contended that applicant No.7 is the sister-in-law of respondent No.1 and applicant No. 8 is husband of applicant No.7. They are residing at Nashik since last five years. They simply attended the

marriage of applicant No.1 and respondent No.1. They are no way concerned with matrimonial life of applicant No.1 and respondent No.1. It is contended that applicant No.9 is cousin of applicant No.1. He is no way concerned with family of applicant No.1. It is contended that the allegations are made against the applicants are vague and general in nature. It is contended that if complaint filed by respondent No.1 is allowed to continued, it would be abuse of process of law. It is contended that in order to harass the applicants false complaint is filed by respondent No.1. It be quashed and dismissed.

3. Notice of this application was issued to respondent No.1. She appeared and filed reply at Exh. 30. It is contended therein that the applicants have suppressed material facts and not come with clean hands. There are various disputed questions of facts, which required to be decided by the trial Court. It is contended that respondent No.1 came to know about extra martial affairs of petitioner No.1, few days after the marriage. Respondent No.1 has reiterated the contents of her complaint bearing D. V. Application 297 of 2019 in her reply. It is contended that respondent No.1 was ill-treated by applicants. Applicant No.3 demanded Rs. 25,00,000/- from the parents of respondent No.1. Respondent No.1 was driven out of matrimonial house as she had no other source of income, she came to her parental house.

Respondent No.1 has filed application wherein, interim maintenance order was passed. In the said order, applicant No.1 was directed to pay maintenance of Rs. 7,000/- per month but the said order was not complied by applicant No.1. It is contended that the allegations made by respondent No.1 are required to be proved by adducing evidence. It is contended that applicants No. 4 and 5 are residing with applicants No. 1 to 3, in the same house. Applicants No.1, 2 and 4 are running hotel in Shirdi. They meet every day with each others. Respondent No.9 also work in the hotel of applicant No.1. He had taken photographs of respondent No.1 and manipulated the same. It is contended that respondents No. 6 and 9 are maternal uncle and cousin brother of applicant No.1 respectively. They are residing at Shirdi for the purpose of hotel business. It is contended that applicants No. 7 and 8 used to visit the matrimonial house of respondent No.1, at least 15 days in a month. They instigated to applicants No.1 to 3 for causing ill-treatment to respondent No.1. It is contended that there is no substance in the application and it be dismissed with cost.

4. Heard the counsel on behalf of the applicants and respondent.

5. Perused Criminal Application No. 297 of 2019 filed before the learned Judicial Magistrate, First Class, Rahata. Respondent

No.1 has described the alleged ill-treatment meted out to her by applicants. It is also alleged against applicant No.3 that she was demanding Rs.25,00,000/- from parents of respondent No.1. Marriage of applicant No.1 and respondent No.1 was solemnized on 10th July, 2018. According to respondent No.1, she was driven out of her house on 09.02.2019. So it can be said that respondent No.1 stayed in the house of applicants No.1 to 4 for about seven months. The applicants have simply denied the allegations made in the domestic violence application. There is no whisper in the application as to why, respondent No.1 left the matrimonial house. Learned counsel for the applicants submits that the marriage of applicant No.1 and applicant No.4 was performed on one and same day. Wife of applicant No.4 and applicant No.5 residing with applicants No. 1 to 4 happily. Though applicants No. 4 and 5 are residing together, happily, it does not mean that respondent No.1 left the matrimonial house without cause. The allegations made in the domestic violence application are required to be proved by respondent No.1 by leading cogent evidence. In this application, the applicants have simply denied the allegations.

6. It is contended that applicants No. 6 to 8 have not shared house. They are resident of Sangamner and Nashik respectively. It is true that applicants No. 6 to 8 are not resident of Shirdi. There are general allegations against them, that they used to threatened

and used to visit Shirdi once in a month. No case made out against applicants No. 6 to 8.

7. So far as applicant No.9 is concerned, he is residing at Shirdi, he is employee of applicants No.1 and 4. There are specific allegations against him that he had taken photographs of respondent No.1 and manipulated the same. So there are allegations against the applicants Nos. 1 to 5 & 9 in the domestic violence application. Therefore, respondent No.1 must get an opportunity to prove the allegations by leading cogent evidence. It is not the fit case to quash entire proceedings. Hence I pass the following order.

ORDER

- (i) Criminal Application is partly allowed.
- (ii) The proceeding of P.W.D.V.A. No. 297 of 2019 pending before the learned Chief Judicial Magistrate, Rahata, Dist. Ahmednagar under Section 12, 18, 19(8), 20, 22 of the Protection of Women From Domestic Violence Act, 2005 as against the applicant Nos. 6 to 8 is quashed and set aside.
- (iii) The application to the extent of applicant Nos. 1 to 5 & 9 is dismissed.

**(SURENDRA P. TAVADE)
JUDGE**