

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1153 OF 2020

1. Vasundhara W/o Digambar Sonkamble,
Age : 60 Years, Occ. Household
2. Digambar S/o Nagorao Sonkamble,
Age : 62 Years, Occ. Nil,

Both R/o. H. No.8-46/G/119,
Gayatri Hills Lane No.2, Bodupopal
Bammoka Garden, Hyderabad.

PETITIONERS.

V E R S U S

1. Manisha W/o Raju Sonkamble,
Age : 26 Years, Occ. Household,
R/o. Raviraj Niwas,
Vaishali Nagar, Mudkhed,
Tq. Mudkhed Dist. Nanded.
2. The State of Maharashtra

RESPONDENTS

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Mr. B. N. Gadegaonkar, Advocate for the Petitioners
Mr. B. G. Londhe, h/f Mr. M.D.Godhamgaonkar,
Advocate for Respondent No.1.
Mrs. G. L. Deshpande, A.P.P for Respondent No.1.
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CORAM : SURENDRA P. TAVADE, J.
DATE : 23.09.2021

J U D G M E N T :

Rule. Rule taken for hearing forthwith. With the consent
of the parties.

2. Petitioners are challenging the order passed by the learned Judicial Magistrate (F.C.), Mudkhed, District Nanded below Exh.15 in PWDVA No. 2 of 2019 and order passed by the learned Additional Sessions Judge, Nanded in Criminal Appeal No.41 of 2019 confirming the order passed by learned Judicial Magistrate (F.C.) Mudkhed in PWDVA No.2/2019 dated 02.05.2019.

3. The petitioners are facing proceeding under 12 of the Protection of Women From Domestic Violence Act, 2005 (Hereinafter referred to as ' Domestic Violence Act') along with other relatives. Respondent No.1 is daughter-in-law of the petitioners. She married to the son of petitioners who resides at United States of America (U.S.A.). It is contended that respondent No.1 filed an application before the learned J.M.F.C. Mudkhed in PWDVA No. 2 of 2019 requesting Court to direct petitioners to furnish detail address and Cell phone number of their son Raju Sonkamble. It is contended that the petitioners are no way concerned with their son since last several years. They do not know the residential address of Raju Sonkamble. They have been deserted by their son.

4. It is contended that the trial Court passed impugned order and directed petitioners to furnish address and Cell phone of Raju Sonkamble. The said order is not legal and valid. Respondent No.1 has abused the process of law and forced the petitioners to furnish the address of their son which they do not have. It is contended that the trial Court as well as the First Appellate courts have not considered the provisions of domestic violence act properly and pass the impugned order. The said order is required to be set-aside.

5. Respondent No.1 appeared and filed her reply affidavit, wherein, she has contended that impugned order passed by the learned Judicial Magistrate (F.C.) Mudkhed is legal and valid. The petitioners are her parents-in-law. They know the detail address and Cell number of her husband but to delay the proceeding they are not furnishing the same. Hence she preferred an application which was allowed by the trial Court. It is contended that, if the address is not supplied by the petitioners, the main petition would become infructious. Similarly, she has also filed divorce petition wherein she also required detail address and cell number of her husband which is within the knowledge of the petitioners. It is contended

that, the impugned order is proper and legal and no need to interfere with the same.

6. Heard learned counsel for the petitioners and learned counsel for the respondent No.1. Perused the impugned order passed by the learned Magistrate and learned Sessions Judge in Criminal Appeal No. 41 of 2019. Admittedly, petitioners are parents-in-law of respondent No.1. It is not disputed that respondent No.1 married to Raju Sonkamble. It is also admitted fact that Raju Sonkamble resides at United States of America. Respondent No.1 cohabited with Raju Sonkamble at United States of America but due to domestic dispute arose between them she returned back to India, but she does not know the detail address of her husband, therefore, she preferred an application wherein impugned order was passed. The learned counsel for the petitioners submits that there is no provision in Code of Criminal Procedure to direct the petitioners to furnish the address of their son. Respondent No.1 has filed petition under the provisions of Domestic Violence Act, but as per the provision of Section 28(2) of the said Act, the Court can lay down it's own procedure for disposal of an application made under

Section 12 or under Sub-Section (2) of Section 23 of the said Act. The said provision runs as under :

“Section 28(2) Nothing in Sub-section (1) shall prevent the Court from laying down its own procedure for disposal of an application under Section 12 or under Sub- Section (2) of Section 23. ”

6. So the learned Magistrate has used its discretionary powers and directed the petitioners to furnish address and Cell Phone number of their son for service of notice on him.

7. It is case of the petitioners that, their son has deserted them. The other respondents in main application are siblings of Raju, therefore, it cannot be said that parents and siblings are not aware of the address of their son and brother respectively. As per the provision of Section 12(5) of the Domestic Violence Act, it is expected from the learned Magistrate to dispose of every application made under Sub Section (1) of Section 12 of the Domestic Violence Act, within a period of sixty days from the date of its first hearing. Therefore, to dispose of the application under Section 12 of the Domestic Violence Act, the trial Court has passed impugned order which is well within the discretion of the trial

Court. Therefore, I do not find any merit in the petition to interfere with the impugned order passed by the learned trial Court.

Hence, I proceed to pass the following order :

O R D E R

- (i) Writ Petition is dismissed.
Rule is discharged.

**(SURENDRA P. TAVADE)
JUDGE**

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