

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

CRIMINAL APPLICATION NO. 3778 OF 2019

- 1) Dipa Vijay Aanand,
Age 46 years, Occ. Household.
- 2) Dr. Vijay Omprakash Aanand,
Age 52 years, Occ. Medical
Practitioner.
Both r/o. 396, Kundana Nagar,
Opp. Atlas Copco, Dapodi,
Pune-12.
- 3) Sau. Gagan Vedprakash Longani,
Age 42 years, Occ. Household.
- 4) Vedprakash Amnath Longani,
Age 42 years, Occ. Business.
Both No. 3 & 4 are r/o. Kumar
Paradise, Magar Patta Road,
Hadapsar, Pune.
- 5) Sau. Manisha Sagar Kumar Mehara,
Age 46 years, Occ. Household.
- 6) Sagar Kumar Keval Krushna Mehara,
Age 51 years, Occ. Private Service.

Both No. 5 & 6 r/o. Plot No. 3, Near
Thatte Haud, Runwal Residence,
Begumpura, Aurangabad.

... **Applicants.**

VERSUS

- 1) The State of Maharashtra,
Through Mukundwadi Police
Station, Tq. & Dist. Aurangabad.
- 2) Sau. Poonam @ Sachi w/o Harjeetsingh
Sodhi, C/o. Sachin Umeshchandra Mehara
Age 33 years, Occupation Teacher.
- 3) Ku. Anika Harjeetsingh Sodhi,
Age 7 years, Occ. Education.
U/g Sau. Sau. Poonam @ Sachi w/o
Harjeetsingh Sodhi.

Both r/o. P 3, 28/2, N-2, Vitthalnagar,
Mukundwadi, Aurangabad.

... **Respondents.**

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Advocate for the Applicants : Mr. S. B. Rajebhosale.
APP for the Respondent No. 1/State : Mrs. R.P. Gaur.
Advocate for the Respondents No. 2& 3 : Mr. Waseem Khan.

CORAM	:	MANGESH S. PATIL, J.
DATE	:	29.06.2021.

ORAL JUDGMENT :

Heard. Rule. The Rule is made returnable forthwith. With the consent of the parties the matter is heard finally at the stage of admission.

2. The applicants are invoking the powers of this Court under Section 482 of the Code of Criminal Procedure for quashing a proceeding initiated by the respondent Nos. 2 and 3 under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter 'D. V. Act'), seeking various reliefs.

3. The respondent Nos. 2 and 3 filed a complaint under Section 12 of the D.V. Act with the allegations that the respondent No. 2 was married on 27.05.2011 and started residing with her husband and in laws at their place in Ahmednagar. She further alleges that in spite of having paid several gifts in cash and kind, she was subjected to illtreatment. She was being taunted for not being able to cook and not being able to discharge daily chores. She was being abused and insulted and made to work like a maid. She further alleges that thereafter all the in laws including the present applicants started demanding money and subjected her to domestic violence. Her husband and mother in law started physically and mentally harassing her. In spite of she having become pregnant with the respondent No. 3 her plight did not abate. She lodged a grievance with the Women's Grievance Redressal Cell but without any result. She was made to go back to her parental home within a

year of her marriage and is wholly dependent on them now. With these allegations she claimed different reliefs as are provided under the D.V. Act.

4. The applicants are the sisters in law, their husbands and mediators of the marriage and are now seeking quashment of the proceeding.

5. The learned advocate Mr. Rajebhosale for the applicants would submit that the applicant Nos. 1 and 3 are the married sisters in law of the respondent No. 2. Their marriages have taken place in the year 1994 and 2001. The applicant Nos. 2 and 4 are their respective husbands. As against this the marriage of the respondent No. 2 was solemnized in the year 2011 meaning thereby that the applicant Nos. 1 and 3 were already married long before the marriage of the respondent No. 2 and when she must have cohabited with her husband and other in laws. He would further submit that the applicants No. 5 and 6 are not even related to the husband of the respondent No. 2. They had only mediated at the time of marriage. The learned advocate would therefore submit that going by the definition of '*shared household*' and '*domestic relationship*' contained under Sections 2(s) and 2(f), the applicants cannot be said to have either shared household or to have committed domestic violence. Consequently, in the absence of such domestic relationship as defined under Section 2(f) between the respondents No. 2 and 3 on the one hand and the applicants on the other, a proceeding under Section 12 of the D.V. Act would not be maintainable against them. In support of his submission he would cite a decision of this Court in the case of **Suresh Bajarang Zarekar and others Vs. The State of Maharashtra and others; 2018 Criminal Law Journal 4558.**

6. The learned advocate for the applicants would further submit that with the self same allegations a criminal proceeding under Sections 498A etc. of the Indian Penal Code was initiated by the respondent No.2 against the husband and other in laws including the present applicants and this Court by the judgment and order dated 07.03.2019 has quashed and set

aside that proceeding qua the applicants.

7. Lastly, the learned advocate for the applicants would point out that the alleged domestic violence is stated to have been committed many years prior to the lodging of the present complaint under Section 12 of the D.V. Act. He would submit that the respondents No. 2 and 3 have been residing with her parents within seven months of the marriage. Whereas, the complaint has been filed in the year 2018. Consequently, in view of section 468 of the Code of Criminal Procedure, the complaint is even otherwise barred.

8. The learned advocate therefore submits that taking into account the guidelines in the case of **State of Haryana and Ors V/s. Bhajan Lal and Ors.: AIR 1992 Supreme Court, 604**, it would be a sheer abuse of the process of the law if the applicants are made to face a proceeding under Section 12 of the D.V. Act.

9. The learned advocate for the respondents No. 2 and 3 submits that at this juncture a threadbare scrutiny of the allegations cannot be resorted to for the obvious reasons that the matter is yet to be proceeded with. The respondents No. 2 and 3 are entitled to lead evidence to demonstrate as to in what manner even the applicants can be made liable for grant of various reliefs under the D.V. Act. It would be premature at this juncture to come to any conclusion.

10. The learned advocate would further submit that there are allegations in the complaint against the applicants to demonstrate that prima facie even they had indulged in domestic violence. They had teased and taunted the respondent No. 2 and even were the part of the family members who had raised demand for money. He would therefore submit that this is not a fit case where the doors of justice should be shut at the threshold.

11. I have considered the rival submissions. There is no dispute about the relations between the applicants and the respondent Nos. 2 and 3. The

applicants No. 1 and 3 are her sisters in law and the applicant Nos. 2 and 4 are their respective husbands. So far as the applicants No. 5 and 6 are concerned, perusal of the complaint filed by the respondents No. 2 and 3 under Section 12 of the D.V. Act does not disclose any relation between them and her much less as defined under Section 2(f) of the D.V. Act. On the contrary, it has been alleged that they had only acted as mediators at the time of marriage.

12. Considering the nature of the dispute it would be important to bear in mind the following definitions provided under the D.V. Act. :

Section 2(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;

Section 2(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.

Section 2(g)- “domestic violence” has the same meaning as assigned to it in section 3;

Section 2(q)- “respondent” means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner.

Section 2(s)- “shared household” means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or alongwith 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.

13. As can be gathered from these definitions a woman would be an aggrieved person who alleges that the respondents who are in domestic relationship with her have subjected her to domestic violence. The domestic relationship has been defined to mean that they have shared household by relation of some consanguinity or marriage or relationship in the nature of marriage, adoption etc. As is defined under Section 2(q) of the D.V. Act a person who has been in a domestic relationship with an aggrieved person can be a respondent against whom reliefs under the Act can be claimed. Whereas, according to Section 2(s) of the D.V. Act a shared household means where the persons have lived together in a domestic relations.

14. If such is the scope and ambit of the law, it was imperative for the respondents No. 2 and 3 to have come with some specific and concrete allegations to demonstrate as to how the applicants can be said to have shared household with them and could be said to have had some domestic relationship with them. The complaint filed by them is clearly devoid of all these vital allegations.

15. Suffice for the purpose to refer to the decision of this Court in the case of **Suresh Bajrang Zarekar (supra)** wherein under similar set of facts and circumstances, by referring to the very same definitions discussed herein above this Court has found that the married sisters in law could not be implicated in a proceeding under Section 12 of the D.V. Act in the absence of these many particulars.

16. It is equally pertinent to note that the respondent No. 2 had simultaneously implicated the applicants even in a proceeding under Section 498A etc. of the Indian Penal Code with the self same allegations and the

Division Bench of this Court in Criminal Application No. 3496/2018 by the judgment and order dated 07.03.2019 has quashed and set aside the criminal proceeding as against the applicants.

17. Apart from the above state of affairs, though it is being alleged that the respondent No. 2 was married on 27.03.2011 but soon thereafter was subjected to domestic violence and had to go back to her parental home within seven to eight months of the marriage and since thereafter has been residing with her parents, even the present proceeding initiated in the year 2018 would be *prima facie* barred by the provisions of Section 468 of the Code of Criminal Procedure.

18. In view of the discussion herein above, it would be a sheer abuse of the process of law if the applicants are made to face a proceeding under Section 12 of the D.V. Act, which is clearly one of the parameters to be borne in mind as laid down in the case of Bhajan Lal (supra) for quashing of a proceeding.

19. The Application is allowed.

20. Proceeding P.W.D.V.A. No. 523/2018 pending before the Judicial Magistrate First Class, Aurangabad, initiated by the respondents No. 2 and 3 under Section 12 of the D.V. Act against the applicants is quashed.

21. Mr. Waseem Khan, learned advocate has been appointed to represent the respondent No. 2 and 3. He may be paid Rs. 5000/- (Rs. Five Thousand only).

22. Rule is made absolute accordingly.

(MANGESH S. PATIL, J.)

mkd/-