

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

**CRIMINAL APPLICATION NO.4281 OF 2019**

- 1] Avinash S/o Rangnath Bhokare  
Age 61 years, Occu-Advocate,  
R/o Umbargaon, Tq. Shrirampur  
Dist. Ahmednagar.
- 2] Sau. Shivnanda W/o Avinash Bhokare  
Age 57 years, Occu-Household,  
R/o as above.
- 3] Sau. Jyoti W/o Annasaheb Shevkar  
Age 39 years, Occu-Household,  
R/o Devi Road, Deshmukh Nagar,  
K.S.B. Pump Ltd. Sinner, Tq. Sinner,  
Dist. Nashik.
- 4] Sau. Kalyani W/o Nitin Unde,  
Age 34 years, Occu-Household,  
R/o Matapur, Tq. Shrirampur,  
Dist. Ahmednagar.
- 5] Sau. Arundhati W/o Himmat Takalkar  
Age 30 years, Occu-Advocate &  
Household, R/o Ghotan,  
Tq. Shevgaon, Dist. Ahmednagar.

..APPLICANTS

[Orig. Non-applicant Nos. 2 to 5)

**VERSUS**

- 1] The State of Maharashtra
- 2] Sau. Rupali W/o Amol Bhokre,  
Age 27 years, Occu-Education,  
C/o Smt. Nandini @ Nandabai  
W/o Shivaji Naik, R/o Pathare  
Khurd, Tq. Rahuri, Dist. Ahmednagar

(Original Applicant)

.. RESPONDENTS

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Shri S.D.Tawshikar, Advocate for the applicants

Smt.R.P.Gaur, A.P.P. for respondent no.1.

Shri Yogesh Kale h/f Shri Rahul Karape, Advocate for respondent no.2.

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**CORAM : MANGESH S. PATIL, J.**

**DATE : 05.03.2021**

**ORAL JUDGMENT :-**

Heard.

2] Rule. Rule is made returnable forthwith. With the consent of both the sides, the matter is heard finally at the stage of admission.

3] This is a proceeding under Section 482 of the Cr.P.C. whereby the applicants are seeking quashment of the proceeding initiated by respondent no.2 against them and her husband, for various reliefs under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as the D.V.Act).

4] The applicant nos.1 and 2 are the parents-in-law of the respondent no.2 whereas other applicants are her married sisters-in-law.

5] The learned advocate for the applicants would submit that the applicants are being falsely dragged into the controversy. There could be a matrimonial dispute between the respondent no.2 and her husband but they are no way concerned with it. Since inception she was adamant

and was not behaving properly while cohabiting in the matrimonial home. In spite of giving birth to a child, there was no change. She used to pick up quarrels on trifling issues. The matrimonial disputes between them went to the extent that the applicant no.1 had to be admitted in a hospital in the year 2017. Respondent no.2 thereafter voluntarily left the matrimonial home. She thereafter threatened the applicants and lodged a false F.I.R. on the basis of which Crime No.333/2018 was registered for the offences punishable under Sections 307, 323, 498-A, 504 and 506 read with Section 34 of the I.P.C. making false and omnibus allegations against not only the husband but even the applicants herein. Subsequently this Court has quashed and set aside the crime *qua* the applicant nos.3 to 5 in Criminal Writ Petition No.854 of 2019 by the judgment and order dated 14/10/2019. Therefore, the learned Advocate would submit that when the allegations in that F.I.R. are *pari materia* with those in the present proceeding under Section 12 of the D.V.Act, even this proceeding should meet the same fate.

6] The learned advocate for the applicants would submit that the allegations in the proceeding initiated by the respondent no.2 are vague and omnibus. No specific overt acts are attributable to any of them. In fact the applicant nos.3 to 5 are married sisters and have been cohabiting in their respective matrimonial homes. They cannot be said to have shared the household with the respondent no.2 within the meaning of Section 2(s) of the D.V.Act and consequently they cannot be said to be in a domestic relation with her within the meaning of Section

2(f) of the D.V.Act. Unmindfully the learned Magistrate has taken cognizance of the complaint *qua* all the applicants. It is sheer abuse of the process of law. Every attempt is made to rope in all the relations of the husband with the sole object of harassing them. Bearing in mind the principles laid down in the case of **Gita Mehrotra and others V/s State of U.P and others; A.I.R. 2013 S.C. 181**, the complaint deserves to be quashed against all the applicants.

7] The learned advocate for the respondent no.2 referring to her affidavit in reply would submit that the complaint filed by her under Section 12 of the D.V.Act clearly discloses as to how all the applicants alongwith the husband have meted her with domestic violence. There is no reason why the complaint should be quashed at the threshold. She must be extended an opportunity to substantiate these allegations. It is specifically averred that even the applicants married sisters-in-law were frequenting to their parental home which is sufficient to infer that they were sharing the household and they were in domestic relation with her and therefore, the application be rejected.

8] I have carefully considered the rival submissions and perused the papers. Since the applicants are seeking quashment of a proceeding at the threshold, at this juncture one need only to refer to the allegations in the complaint filed by respondent no.2 under Section 12 of the D.V.Act to ascertain if *prima facie* there is material sufficient enough to allow her to prosecute the proceeding further.

9] A careful perusal of the complaint of the respondent no.2 would reveal that in paragraph no.7 she has specifically alleged that after few days of her marriage, the opponent nos.1 to 3 therein i.e. the husband and the parents-in-law started subjecting her to mental torture. They insisted her to bring money from her brother. She has then averred that she had taken admission to second year of the M.Sc. but the applicant no.2 mother-in-law destroyed her study notes. She then alleges that subsequently, the applicant nos.1 and 2 started hating her son and started expressing more affectionate relation with the daughter of the applicant no.5 who was also residing in her parental home. She then alleges that in the year 2015 when she insisted for celebrating birthday of her son, the husband and the applicant nos.1 to 3 abused and threatened her. She was made to stand in rain and was driven out.

10] She then alleges that somehow she could resume cohabitation. The applicant no.1 then met with an accident and thereafter the applicants started insisting her to bring money from her mother and brother to pay the hospital bill. She could manage to raise money by pledging her ornaments and paid the bill. It is then alleged that thereafter applicant no.1 started asserting that he had met with accident only because of her and he even started assaulting her with a stick. At that time, applicant no.5 was also staying in the same house because of the transfer of her husband. At several places she alleges about specific episodes as to how the husband and the parents-in-law i.e. the applicant nos.1 and 2

subjected her to physical and mental torture.

11] After considering these averments in the complaint it is quite clear that specific and precise overt acts are attributable to the applicant nos.1 and 2 *prima facie* showing that they had subjected the respondent no.2 to domestic violence while they were having domestic relations with her.

12] Though it is now being tried to be demonstrated that the relations of the respondent no.2 had assaulted the applicant nos.1 and 2 and to substantiate it they have produced photographs and 2 certificates of the concerned hospital, as has been rightly pointed out by the learned advocate for the respondent no.2 the certificate issued by Sanjivan Hospital (Exh.C) shows that the history that was given by the applicant no.1 while admitting in the hospital, was about he having met with a road traffic accident. The date of this certificate is 17/3/2017 commensurate with the allegations in the complaint of the respondent no.2 that he was admitted in the hospital and she was made to pay the bill by attributing her as the cause of the accident.

13] As far as quashment of the F.I.R. lodged by the respondent no.2 is concerned, it was a proceeding initiated by applicant nos.3 to 5 and not by the applicant nos.1 and 2 whose similar Petition is stated to be still pending.

14] Whatever may be the state of the affairs, the fact remains that

there are specific and precise allegations as against applicant nos.1 and 2 and the inquiry initiated by the respondent no.2 cannot be stalled abruptly.

15] But then, even if quashment of the F.I.R. against applicant nos.3 to 5 is ignored, still, the allegations in the complaint against them are vague and omnibus. The endeavour is clearly made to somehow connect them with some episode. The fact remains that they are admittedly married sisters-in-law and obviously must have been residing in their matrimonial homes. Consequently it cannot be said that merely because they some times visited their parental home, they were sharing the household with the respondent no.2 within the meaning of Section 2(s) of the D.V.Act so as to constitute a domestic relation between the two as defined under Section 2(f) of the D.V.Act.

16] For these reasons when this Court expressed its disclination to allow the application to the extent of applicant nos.1 and 2, their learned advocate, on instructions, seeks leave to withdraw the application to their extent.

17] It would be sheer abuse of the process of law if married sisters-in-law are allowed to face a proceeding under D.V.Act with such vague and omnibus allegations, more so when even the F.I.R. for the self same incidents has been quashed and set aside by this Court.

18] The application is partly allowed. The proceeding initiated by the respondent no.2 under Section 12 of the D.V.Act stands quashed and set aside as against applicant nos.3 to 5.

19] The application to the extent of applicant nos.1 and 2 is dismissed as withdrawn. The Rule is made absolute accordingly.

**[MANGESH S. PATIL, J.]**

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