

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL) NO.165 OF 2020

(Dhanraj s/o Sitaramji Bagaitkar and another Vs. Kalyani w/o Ajay Bagaitkar and another)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mr. U.R. Phasate, Advocate for Applicants.
Mr. J.D. Bastian, Advocate for Non-Applicants 1 & 2.

CORAM: ROHIT B. DEO, J.
DATE: 14th JANUARY, 2021.

The applicants are invoking this Court inherent powers under section 482 of the Code of Criminal Procedure, 1973 (Code) seeking quashment of the proceedings initiated by the non-applicants under section 12 read with section 18, 19, 20, 21, 22 and 23 of the Protection of Women from Domestic Violence Act, 2005 (D.V. Act).

2. The applicants are the father-in-law and mother-in-law of non-applicant 1 Mrs. Kalyani.

3. Mrs. Kalyani and Dr. Ajay, the son of the applicants herein, entered into matrimonial alliance on 22.11.2019. Non-applicant 2 is the child born from the said wedlock.

4. Mrs. Kalyani started residing with her husband

and parents in law at Nagpur.

5. The application under section 12 of the D.V. Act elaborately and vividly narrates the domestic violence to which Mrs. Kalyani was subjected, not only by Dr. Ajay, by the applicants herein too.

6. Paragraph 3 of the application avers that Dr. Ajay and applicant 1 Dhanraj ill-treated Mrs. Kalyani to coerce her family to succumb to the dowry demand of Rs.10,00,000/-.

7. Paragraph 6 of the application alleges that applicant 2 Mrs. Shashikala started levelling false allegations against Mrs. Kalyani and instigated Dr. Ajay to further ill-treat her, emotionally and physically.

8. Paragraph 7 avers that along with Dr. Ajay the applicants herein used to violate the privacy of Mrs. Kalyani by “searching her room” and keeping watch on her day-to-day activities.

9. The applicants have not placed on record their written statement, which according to the learned counsel Mr. Phasate is filed.

10. Be that as it may, it is irrefutable that the applicants shared a common household with Mrs. Kalyani.

The nature of the averments is already spelt out briefly, *supra*. The veracity of the averments would ultimately be the call of the trial court. At this stage, it would be difficult to accede to the submission that the application under section 12 of the D.V. Act is liable to be quashed.

11. Mr. Phastate would submit that the allegations are extremely vague. It is difficult to agree. The allegations, if taken at face value, do constitute domestic violence within the meaning of section 3(b) of the D.V. Act.

12. Mr. Phasate would then submit that no relief is sought against the present applicants. The submission appears to be contrary to record as is apparent from “prayer clause 2” which seeks a direction to Dr. Ajay and the applicants herein to permit Mrs. Kalyani to reside in the shared household.

13. Mr. Phasate finally relies on the decision of the Division Bench in *Vikrant Sudhakar Ambhore & Ors. v. Varsha Vikrant Ambhore* reported in *2014 ALL MR (Cri) 2826*. The view of the Division Bench is predicated on the absence of pleading that there was harassment. It would be apposite to reproduce paragraph 5 of the decision which reads thus:

5. Shri Vyas, learned Advocate for the non-applicant, has submitted that the allegations made in paragraph no.3 against the applicants constitute domestic violence as

contemplated by Section 3(b) of the Protection of Women from Domestic Violence Act, 2005. However, we find that the non-applicant has not even pleaded that there was harassment or harm or injuries or anything which endangered her to coerce her to fulfill the demand, which are the necessary ingredients.

14. The decision of the Division Bench turns on facts, and takes the cause of the applicants herein no further. The application is devoid of substance and is dismissed.

JUDGE