

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

CRIMINAL WRIT PETITION NO.333 OF 2020

1. Ravi s/o Fulchand Chavhan,
Aged about 30 years,
Occu: Service, R/o Quarter No.
Type-2/71/7, Jawaharnagar,
Tahsil & District Bhandara.
2. Mamta w/o Arun Borkar,
Aged about 45 years,
Occu: Service,
R/o Sitasambai Gobarvahi Mines,
Tahsil Tumsar, District Bhandara.
3. Sulochana w/o Fulchand Chavhan,
Aged about 63 years,
Occu: Household.
4. Fulchand s/o Raghunath Chavhan,
Aged about 70 years, Occu: Nil.

No.3 & 4 R/o Warashivni Rampaili Road,
Bidi Colony, Ward No.1, Tah. Warashivni,
District Balaghat (M.P).

5. Alka w/o Rameshwar Patle,
Aged about 42 years,
Occu: Household, R/o Mehendi Wada,
Warashivni, District Balaghat (M.P).
6. Poonam w/o Umesh Meshram,
Aged about 42 years,
Occu: Household,
R/o Warashivni Rampaili Road,
Ward No.1, Tah. Warashivni,
District Balaghat (M.P).

..... **PETITIONERS**

...VERSUS...

Apurva w/o Ravi Chavhan,
Aged about 24 years,
Occu: Private Work,
R/o C/o Anil Ukye, Quarter No. G-55/4,
Jawaharnagar (Maheri),
Tah. & Dist. Bhandara. **RESPONDENT**

Mr. A.V. Muley, Advocate for Petitioners.
Mr. K.S. Motwani, Advocate for Respondent.

CORAM: **ROHIT B. DEO, J.**
DATE: **5th FEBRUARY, 2021.**

ORAL JUDGMENT:

With consent the petition is finally heard at the admission stage.

2. The petitioners are seeking quashment of proceedings initiated by respondent Mrs. Apurva under Section 12 and cognate provisions of the Protection of Women from Domestic Violence Act, 2005 (for short 'DV Act').

3. Petitioner 1 is the husband, petitioner 3 the mother-in-law, petitioner 4 the father-in-law and petitioners 2, 5 and 6 the sisters-in-law of Mrs. Apurva.

4. The learned counsel for the petitioners Mr. Muley states that the petition is not pressed qua petitioner 1 Ravi. Mr. Muley would submit that qua the other petitioners, the learned Magistrate committed a jurisdictional error in taking cognizance of the application under the DV Act. The extension of the submission is that the application, holistically read and understood, does not make out a case of domestic violence against the parents-in-law and the sisters-in-law of Mrs. Apurva. Mr. Motwani would submit, inviting my attention to the pleadings, that the necessary averments as would make out a case of domestic violence are incorporated in the application, and the learned Magistrate committed no error in taking cognizance.

5. Section 2 (a) of the act defines aggrieved person to mean 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.

6. Section 2 (f) defines domestic relationship to mean 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 joint family.

7. Section 2 (g) provides that domestic violence shall have the same meaning as assigned to it in Section 3.

8. Section 3 of the Act reads thus:

3. Definitions of domestic violence.—*For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it—*

(a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

(b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or

(c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or

(d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

Explanation I.—*For the purposes of this section,—*

(i) *“physical abuse” means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force;*

(ii) *“sexual abuse” includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman;*

(iii) *“verbal and emotional abuse” includes*

(a) *insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and*

(b) *repeated threats to cause physical pain to any person in whom the aggrieved person is interested;*

(iv) *“economic abuse” includes—*

(a) *deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, household necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared household and maintenance;*

(b) *disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her stridhan or any other*

property jointly or separately held by the aggrieved person; and

(c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.

Explanation II.—For the purpose of determining whether any act, omission, commission or conduct of the respondent constitutes “domestic violence” under this section, the overall facts and circumstances of the case shall be taken into consideration.

9. The jurisdictional fact which would clothe the Magistrate with the jurisdiction under the DV Act is, therefore, that she an aggrieved person which postulate that she is, or has been, in a domestic relationship with the respondent. Domestic relationship envisages that the persons live or have lived, at any point of time, together, in a shared household.

10. If the pleadings are analyzed on the touchstone of the statutory provisions, it is apparent that Mrs. Apurva did not live with her parents-in-law and sisters-in-law in a shared household. The marriage was solemnized on 17.01.2019 and the averment in the application is that after marriage Mrs. Apurva started living with her husband at Jawaharnagar, Bhandara since her husband is

employed with the Ordnance Factory Jawaharnagar, Bhandara. Mrs. Apurva alleges that due to the ill-treatment inflicted she was forced to live the matrimonial home on 12.10.2019. Mr. Motwani invites my attention to the averment in paragraph 4(3) which is that after marriage Mrs. Apurva visited Warashivni, District Balaghat and there, her parents-in-law ill-treated her on the issue of not satisfying dowry demand. Mr. Motwani then invites my attention to the averment in paragraph 4(4) which is that every month the husband used to take Apurva to Warashivni, District Balaghat and there the parents-in-law and sisters-in-law used to ill-treat her.

11. The pleadings, fall short of making out a case of shared household. Indeed, it is not even averred that at Warashivni Mrs. Apurva and her husband stayed under the same roof with her parents-in-law and sisters-in-law. That apart, a fleeting i.e. social visit cannot be the test to assess whether there was a shared household, and therefore, domestic relationship. The legislative intent cannot be subverted by resorting to clever and convenient drafting and inserting certain averments only to rope in the relatives of the husband.

12. In my considered view, no case to proceed against the petitioners, save and except petitioner 1, is made out and therefore, PWD.V.C. 12 of 2020 pending before the Judicial Magistrate First Class, Bhandara is quashed to the extent of the parents-in-law and sisters-in-law of respondent Mrs. Apurva.

13. Rule is made absolute in the aforestated terms.

JUDGE

NSN