

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

Criminal Application (APL) No. 659 of 2019

Sudhakar Bawane & Ors. Vs. Meenakshi Mahore

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

Court's or Judge's orders

Mr. O.Y. Kashid, Advocate for the applicants

CORAM : MANISH PITALE, J.

DATED : AUGUST 09, 2021

By this application, the applicants are seeking quashing of proceedings as against them in Misc. Criminal Application No. 13 of 2019, pending before the Court of Judicial Magistrate First Class, Daryapur. The respondent filed the aforesaid proceeding under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (D.V. Act). She has sought various reliefs under the said application. Before the Magistrate, the respondent is the husband, respondent No.2 is the mother-in-law and respondent No.3 is father-in-law of the non-applicant herein. Applicant No.1 is added as respondent No.7, while the applicants No.2 to 4 are added as respondents No.4 to 6 in the said pending application before the Magistrate.

2. Mr. O.Y. Kashid, learned counsel appearing for the applicants submits that the aforesaid

proceedings deserve to be quashed as against the applicants before this Court, for the reason that they never had a domestic relationship with the non-applicant herein and they have never lived in a shared household. By referring to relevant provisions of the D.V. Act, it is submitted that insofar as applicants before this Court are concerned, the proceedings deserve to be quashed. This Court had issued notice in the present application, as far back as on 16/09/2019. The respondent was served. She was granted an opportunity to appear before this Court by an order dated 23/06/2021 and the application was directed to be listed on 09/07/2021. The application came to be listed on 12/07/2021, when this Court adjourned the matter in order to give a last chance to respondent to appear before this Court. The application stood adjourned till today i.e. 09/08/2021.

3. Even today, when the application is called out, none has appeared on behalf of the respondent. In order to consider the specific contentions raised on behalf of the applicants, it would be relevant to refer to certain definitions given in the D.V. Act. Relevant provisions read as follows :

“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;”

“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 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;”

4. A bare perusal of the above quoted provisions would show that the definitions of domestic relationship and shared household are intertwined, to the extent that a person can be said to be in domestic relationship with the other who lives or had lived at any point in time together in a shared household with the other. Shared household is defined as a household where a person aggrieved (non-applicant herein) lives or had lived at any stage in a domestic relationship with the respondent.

5. The Hon’ble Supreme Court in the case of **Satish Chander Ahuja vs. Sneha Ahuja**¹ has considered such a situation where the aggrieved person approaches the Magistrate under the

1 (2021) 1 SCC 414

provisions of the D.V. Act for reliefs, wherein relatives of the husband are added as respondents. The Hon'ble Supreme Court has emphasized that any and every relative of the husband cannot be arrayed as respondent in the application. Only such relatives who would answer definition of domestic relationship could be arrayed as respondent. In the context of domestic relationship and shared household, the Hon'ble Supreme Court held as follows :

“68. The words “lives or at any stage has lived in a domestic relationship” have to be given its normal and purposeful meaning. The living of woman in a household has to refer to a living which has some permanency. Mere fleeting or casual living at different places shall not make a shared household. The intention of the parties and the nature of living including the nature of household have to be looked into to find out as to whether the parties intended to treat the premises as shared household or not. As noted above, 2005 Act was enacted to give a higher right in favour of women. The 2005 Act has been enacted to provide for more effective protection of the rights of the women who are victims of violence of any kind occurring within the family. The Act has to be interpreted in a manner to effectuate the very purpose and object of the Act. Section 2(s) read with Sections 17 and 19 of 2005 Act grants an entitlement in favour of the woman of the right of residence under the shared household irrespective of her having any legal interest in the same or not.”

6. Applying the said position of law to the facts of the present case, it is evident from a perusal of the application filed on behalf of the non-applicant

itself that the applicants before this Court, being the sisters and husband of one of the sisters of the husband of the non-applicant, admittedly did not live in the same household with the non-applicant. Apart from the fact that their addresses are different from the house in which the non-applicant admittedly lived with her husband, mother-in-law and father-in-law, it is specifically alleged in the application that whenever the applicants before this Court used to visit their house they used to allegedly provoke the husband to harass the non-applicant. Such allegations are not enough to show that the applicants before this Court could be said to be in a domestic relationship with the non-applicant or that she had lived or was living in a shared household with them. Once this aspect becomes clear on a bare reading of the application itself filed under the provisions of the D.V. Act, it can be said that no purpose would be served by allowing the proceedings to continue against the applicants before this Court.

7. In view of the above, the application is allowed. The proceedings bearing Misc. Criminal Application No.13/2019, pending before the Court of Judicial Magistrate First Class, Daryapur, are quashed insofar as the applicants before this Court are concerned. The application stands disposed of.

JUDGE