

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

CRIMINAL WRIT PETITION 1042 OF 2019

1. Shri Pundlikrao s/o. Bapurao Turkhede,
age 66 yrs, Occ. Retired,
r/o. Subodh Colony, Opp. Meghe
Complex, V.M.V. Road, Amravati,
Tq. Dist. Amravati
2. Sau. Sheelatai Pundlikrao Turkhede,
age 60 yrs, Occ. Pensioner,
r/o. Subodh Colony,
Opp. Meghe Complex, V.M.V.Road,
Amravati, Tq. Dist. Amravati

.....**PETITIONERS**

...VERSUS...

Sau. Janvi Alias Bhagyashree Satyajeet Turkhede,
age 28 yrs, Occ. Household,
r/o. c/o. Shri Rajendra Bhoyar, Vidyaketan
Colony, Behind Water Supply Office,
Paratwada, Tq. Achalpur, Dist. Amravati

... **RESPONDENT**

 Mr. P. S. Patil, counsel for petitioners.
 Mr. N. Behrani, counsel for respondent.

CORAM: ROHIT B. DEO, J.
DATE : 25.01.2021

ORAL JUDGMENT:

Heard Mr. P. S. Patil, the learned counsel for the
 petitioners and Mr. N. Behrani, the learned counsel for the
 respondent.

2. This petition is preferred under Article 227 of the Constitution of India seeking the following relief:

1. Delete the name of petitioners from proceeding bearing Domestic Violence Case No. 22/2019 (Sau. Janvi v/s Satyajeet and others) (Annexure-I), filed by respondent before Judicial Magistrate First Class, Court No. 1, Achalpur, Dist. Amravati, under the Protection of Women from Domestic Violence Act, 2005 in the interest of justice.

3. The proceeding under the Protection of Women from Domestic Violence Act, 2005 ("D.V. Act") is instituted by the respondent in which her husband is impleaded as non-applicant 1 and the petitioners herein, who are the father-in-law and mother-in-law, respectively, of respondent herein, are impleaded as non-applicants 2 and 3.

4. The petitioners contend, that even if the entire application under section 12 of the D.V. Act, which is preferred by the respondent, is accepted at face value, no case is made out to

proceed against the petitioners, in as much as, no case of domestic violence is made out. The extension of the submission, is that, primary allegations are against the son of the petitioners, who is the husband of respondent, and the petitioners are roped in, only to extract maintenance and compensation.

5. The petitioners state that the respondent claimed interim maintenance, which application is partly allowed by the Judicial Magistrate First Class, Court-1, Achalpur, vide order dated 23.10.2019, and the non-applicants are directed to pay the respondent herein maintenance of Rs. 15,000/- per month. The petitioners have not disclosed whether the said order of interim maintenance is assailed in an appropriate proceeding.

6. In my considered view, the petition is substanceless and merits dismissal, for reasons spelt out herein.

7. The petitioners have not placed on record, the written statement filed, if any. The petitioners have made no reference in the body of the petition to their statement, in defence. Be that as it may, it is settled law, that if the allegations in the application under section 12 make out a prima facie case, it would not be

appropriate to look into the defence and then to nip the proceeding in the bud. Perusal of the averments in the application reveal that the respondent alleges that after her marriage with the son of the petitioners, she started residing with her matrimonial family at Amravati, which is a joint family. She has alleged that all the respondents subjected her to mental cruelty and used to tease and taunt her and her parents since the respondents in the application under section 12 of the D.V. Act perceived that her parents did not give sufficient dowry in the form of articles. It is alleged that all the respondents in the application under section 12 of the D.V. Act, used to taunt the respondent herein, who they perceived to hail from comparatively weak financial background. It is further alleged that all the respondents questioned her character and accused her of adultery.

8. Considering the averments in the application under section 12 of the D.V. Act, it is difficult to held that there is no case made out to proceed against the petitioners herein, who are impleaded as non-applicants 2 and 3 in the application under section 12 of D.V. Act.

9. The petitioners do have an opportunity to

substantiate their contention of having been unnecessarily roped in, in the proceeding, after the evidence is recorded. The trial Court would undoubtedly appreciate the evidence on record and render an appropriate finding on the said contention. However, the proceedings cannot be nipped in the bud, even qua the petitioners herein.

10. No case is made out for interference in the writ jurisdiction.

11. The petition is dismissed.

Judge

Belkhede