

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

CRIMINAL APPLICATION (APL) NO.1272 OF 2019

1. Pramodrao s/o Marotrao Khadse,
Aged 60, Occ: Retired.
2. Prabha w/o Pramodrao Khadse,
Aged 55, Occ: Housewife.

Applicant no 1 and 2 are resident of
Ashirwad Nagar, Near Papermill,
Chamorshi, Gadchiroli, Dist. Gadchiroli.

3. Radhika Vanakar,
Aged 55, Occ: Housewife,
R/o Ayodhya Nagar, Nagpur. **APPLICANTS**

...VERSUS...

1. State of Maharashtra through its
protecting officer attached to the
Police Station Warud.
2. Sau. Pradnya w/o Nitesh Khadse,
Aged 27, Occ: Service,
R/o C/o Pramila w/o Sudhakar Lavale,
Gurudev Nagar, Ring Road, Warud,
Dist. Amravati. **NON-APPLICANTS**

 Mrs. Padma Chandekar, Advocate for Applicants.
 Mr. N.R. Rode, APP for Non-Applicant 1/State.
 Mrs. S.H. Bhatia, Advocate (Appointed) for Non-Applicant 2.

CORAM: **ROHIT B. DEO, J.**
DATE: **29th JANUARY, 2021.**

ORAL JUDGMENT:

This application is preferred by the parents-in-law and

the aunt of the husband of non-applicant 2 Mrs. Pradnya seeking quashment of proceedings initiated under the Protection of Women from Domestic Violence Act, 2005 (D.V. Act). The learned counsel Mrs. Chandekar would submit that qua Radhika Vanakar who is the aunt of Mrs. Pradnya's husband Nilesh, the application is not maintainable since even if the allegations are accepted at face value, Mrs. Pradnya and Mrs. Radhika did not reside in a shared household and that there was, therefore, no domestic relationship. The submission is well merited. Perusal of the application under Section 12 of the D.V. Act would reveal, that the allegations do not make out a case of Mrs. Pradnya and Mrs. Radhika being, at any point in time, in a domestic relationship. It is irrefutable that Mrs. Radhika resided in a different town and that the allegation that she telephonically instigated the matrimonial family is not sufficient to infer a domestic relationship. To the extent of Mrs. Radhika, the proceedings shall have to be quashed.

2. However, the same cannot be said qua the parents-in-law. The learned counsel for Mrs. Pradnya invites my attention to the averments in the application. If the averments in the application are taken at face value, which indeed will have to

be done while exercising jurisdiction under Section 482 of the Code of Criminal Procedure ('Code'), a case of domestic relationship is made out since irrefutably Mrs. Pradnya did reside with her husband and in-laws. Allegations are incorporated in the application which, if accepted, do make out a case of domestic violence.

3. Mrs. Chandekar however, submits that there is no relief claimed against the in-laws, and therefore, continuation of the proceedings shall be an abuse of the process of law. The learned counsel Mrs. Bhatia would submit that considering the purpose of the Act which is a beneficial and welfare legislation, a hyper technical approach must be avoided in construing the pleadings. Mrs. Bhatia would submit that the expression "non-applicant" (the application is in vernacular and the expression used is "गैरअर्जदार") would encompass all the non-applicants. I am inclined to agree. Semantics apart, and keeping aside the niceties of grammar or language, the prayer clause has to be read in the context of the pleadings and assuming that Mrs. Pradnya could have worded the prayer clause in a more puritan manner, she cannot be non-suited on that count. As I have noted, there are allegations which would warrant continuation of

proceedings against the in-laws and the expression non-applicant shall therefore, have to be construed as referring to all the non-applicants.

4. Mrs. Chandekar then strenuously submits, that the allegations are substance-less. However, I am not inclined to look into the defence at this stage. The truth or falsity of the allegations is a matter to be addressed after the parties adduced evidence and in exercise of jurisdiction under Section 482 of the Code, I would loath to encroach on the domain of the trial court.

5. The application is partly allowed.

6. While the proceedings shall stand quashed qua Mrs. Radhika Vanakar, the proceedings shall continue against Mr. Pramodrao Khadse and Mrs. Prabha Khadse. The learned Magistrate is requested to finally decide the Section 12 application as expeditiously as possible and in any event within six months.

7. The fees payable to the learned appointed counsel Mrs. Bhatia be quantified and paid in accordance with the rules.

JUDGE