

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.247 OF 2022

- 1) Archana @ Varsha W/o Dilip Barde,
Age-29 years, Occu:Household,
R/o-Pratappur, Tal-Sangamner,
Dist-Ahmednagar,
- 2) Dilip S/o Bhausahab Barde,
Age-37 years, Occu:Service,
R/o-Pratappur, Tal-Sangamner,
Dist-Ahmednagar,

...APPLICANTS

VERSUS

- 1) Shubhangi W/o Pradip Sangle,
Age-24 years, Occu:Household,
R/o-Pondul No.03, Tal-Shirur,
Dist-Beed,
- 2) Yash Pradip Sangle,
Age-04 years, Occu:Education,
Minor, through his natural guardian
i.e. mother – Respondent No.1,
R/o-Pondul No.03, Tal-Shirur,
Dist-Beed.

...RESPONDENTS

...
Mr. Shaikh Mazhar A. Jahagirdar Advocate for Applicants.
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CORAM: SMT. VIBHA KANKANWADI, J.

DATE : 6th JULY, 2022

ORDER :

1. Present Application has been filed under Section 482 of the Code of Criminal Procedure for quashing the proceedings under Section 12 of the Protection of Women From Domestic Violence Act, 2005 (for short Domestic Violence Act") filed by present respondents, bearing Criminal Misc. Application No.1197 of 2021, pending before the learned Chief Judicial Magistrate, Beed, against the applicants.

2. Notice of the Application before admission was served to the present respondents, however, they remained absent and therefore, once again notice was issued to them for final hearing. It was also served, however the respondents remained absent. Under such circumstances, the matter has proceeded without the presence of the respondents.

3. Heard Mr. Shaikh, learned Advocate appearing for the applicants.

4. It is not in dispute that present respondent No.1 got married to Pradip Sangle - original respondent No.1 on 29th April 2016. Present applicants are original respondent Nos.4 and 5.

Original respondent No.4 i.e. present applicant No.1 is the sister in law of present respondent No.1, and applicant No.2 is the husband of applicant No.1. It appears that applicants got married prior to the marriage between present respondent No.1 – aggrieved person with original respondent No.1. However, no documentary evidence has been produced by the applicants to state the exact date of their marriage. However, in the Application it is stated that applicant Nos.1 and 2 got married in the year 2010 and their marriage is inter-caste. It is stated that because of the inter-caste marriage, applicant No.1 has been boycotted from her parental house and she has no access to the place where her brothers / parents reside. The learned Advocate for the applicants tried to demonstrate this fact on the basis of the invitation card of the marriage between the aggrieved person and original respondent No.1. However that cannot be taken as a piece of evidence that present applicant No.1 was not allowed to come in the house of original respondent Nos.1 to 3. That would be a disputed fact, which cannot be gone into by this Court at this stage.

5. If we consider the allegations in the Application, the aggrieved person has made specific allegations against original

respondent Nos.1 to 4 i.e. including present applicant No.1 that, they used to harass her after one year of her marriage. The harassment was in the nature of abuses, insulting words, assault, giving stale food to eat, asking her to do domestic work, illegal demand of Rs.6,00,000/- for purchase of four wheeler. However, perusal of the Application would show that as against applicant No.2 i.e. original respondent No.5, it is only stated that on 20th March 2019 he was instigating the other respondents to assault the aggrieved person. Except that stray statement there is nothing against applicant No.2. Only on the basis of one omnibus statement in the Application, it cannot be stated that applicant No.2 was subjecting the aggrieved person to domestic violence and therefore, case is made out for quashing the proceedings as against applicant No.2.

6. However, taking into consideration the allegations in the Application, the proceedings cannot be quashed as against applicant No.1.

7. The Application, therefore, deserves to be partly allowed. Accordingly, following order is passed:-

ORDER

(I) The Application stands partly allowed.

(II) The proceedings under Section 12 of the Protection of Women From Domestic Violence Act, 2005 vide Criminal Misc. Application No.1197 of 2021 pending on the file of the learned Chief Judicial Magistrate, Beed, filed by the present respondents, stands quashed and set aside as against applicant No.2 – Dilip S/o Bhausahab Barde.

(III) The prayer to quash the said proceedings as against applicant No.1 – Archana @ Varsha W/o Dilip Barde, stands rejected.

[SMT. VIBHA KANKANWADI, J.]