

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

919 CRIMINAL APPLICATION NO.440 OF 2022

JYOTI GANESH PATIL AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. H.P. Randhir, Advocate for the applicant No.1

Mr. R.B. Bagul, APP for the respondent No.1

Mr. S.N. Dudhate, Advocate for the respondent No.2

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 08th JULY, 2022

PER COURT :

1 Present application has been filed under the inherent powers of this Court under Section 482 of the Code of Criminal Procedure, 1973, for quashing Criminal Miscellaneous Application No.1027/2020 filed by the present respondent No.2 under Section 12 of the Domestic Violence Act before Judicial Magistrate First Class, Sillod, Dist. Aurangabad for various reliefs under the said Act. It will not be out of place to mention here that this Court by order dated 21.04.2022 when showed disinclination to issue notices in respect of this application for applicant No.2 Asha, who is the mother-in-

law of the respondent No.2, the application stood withdrawn in respect of applicant No.2. Therefore, the matter can be considered only against the applicant No.1, who is arrayed as respondent No.5 in the petition before learned Magistrate.

2 Heard learned Advocate Mr. H.P. Randhir for the applicant No.1, learned APP Mr. R.B. Bagul for the respondent No.1 and learned Advocate Mr. S.N. Dudhate for the respondent No.2.

3 Perusal of the documents along with the petition are concerned, it can be seen that by order dated 10.04.2008 the respondent No.2 came to be appointed temporarily for the technical post as Stock Supervisor by the Chief Executive Officer, Zilla Parishad, Jalgaon and her posting was stated to be at village Kathora, Tq. Bhusawal. It also appears that the present applicant No.1 was married in the year 2007, but the respondent No.2 in her application before learned Magistrate has not even whispered about all those things. She has given the occupation of the respondent No.5 as Household, but, then, her residential address has been stated as 'Veterinary Doctor, Bhusawal, Tq. Bhusawal, Dist. Jalgaon (wrongly mentioned as Dist. Bhusawal). Thus, there appears to be total suppression of the facts that the respondent No.5 was serving since prior to the marriage of the aggrieved

person with respondent No.1 on 07.07.2020. It also appears from the copy of the ration card of the applicant No.1 that she resides in Pragati Building, Kulkarni Plot, near Mamaji Talkies in Bhusawal and she had two sons. This gives definitely an indication that she was not residing in the shared household with the aggrieved persons. It shows, allegations against the respondent No.5 are not at all independent but it is then stated that she along with respondent Nos.1 to 4 has caused alleged acts of domestic violence. When she herself had given the address of the respondent Nos.1 to 4 of Wagholi, Pune and then gives address of the respondent No.5 of Bhusawal, then, it was incumbent upon the aggrieved person i.e. the present respondent No.2 to satisfy as to what point of time the respondent No.5 and she herself were staying in the shared household after the marriage. When these basic pleadings are lacking and the documents on record are supporting the address given by the aggrieved person of a different place, then, a case is made out to invoke the inherent powers of this Court to quash the entire proceedings against the applicant No.1. When she cannot be arrayed as respondent, in view of the fact that she was residing at a different place and it was less likely that she would have caused any acts of domestic violence against the aggrieved person; the respondent No.5 cannot be asked to face the proceedings.

4 Time and again, this Court as well as the Hon'ble Supreme Court has observed that it is a fashion to array all the relatives of the husband as respondents or to make them as an accused in a complaint under Section 498-A of the Indian Penal Code and it shows the misuse of the proceedings of law, still the instances have not reduced. Such poor relatives, who were never staying with the husband, cannot be asked to face the proceedings on some stray statements about the domestic violence. Therefore, the application deserves to be allowed. Accordingly, following order is passed.

ORDER

1 The application stands allowed.

2 The proceedings in Criminal Miscellaneous Application No.1027/2020 filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005 for various reliefs before Judicial Magistrate First Class, Sillod, Dist. Aurangabad stands quashed and set aside as against respondent No.5 – present applicant No.1.

(Smt. Vibha Kankanwadi, J.)