

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 254 OF 2020

MINAKSHI WD./O. AJITRAO PATIL AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND ANR

...

Advocate for Petitioners : Mr. Patil Ujwal Subhash

APP for Respondent No.1/State : Mr. Y. G. Gujrati

Advocate for Respondent No.2 : Smt. D. S. Jape (appointed)

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CORAM : KISHORE C. SANT, J.

DATE : 1st DECEMBER 2022.

Per Court :

1. By way of this petition, the Petitioners who are in-laws of Respondent No.2, have prayed for quashing the proceeding bearing PWDVA No.9/2019 pending before learned Judicial Magistrate First Class, Jalgaon under the Domestic Violence Act, 2005 ('D.V. Act' for short). The said proceeding is filed for seeking various reliefs under the D.V. Act.

2. Looking at the averments in the complaint, it is seen that the

allegations are made mainly against the Husband of Respondent No.2. In Paragraph No.6, Respondent No.2 had made allegations against the present Petitioner Nos. 2, 3 and 5, that they demanded Rs.10 Lakhs, saying that the amount is required as the house, in which they are residing, is purchased by obtaining loan. The allegation against the husband is that he used to suspect to the character of Respondent No.2-Wife. It is alleged that these Petitioners were also taking side of the husband. She has further alleged that the Original Accused No.2, 3, 6, 7 also used to give threats and used to assault her. Similar is the case about the allegation that they used to utter her badly in the nature of outraging her modesty. Though further allegations are made, but it is seen that no specific instances are given.

3. The present Petitioners have demonstrated all the allegations are not correct and how the case is not made out prima-facie. It is pointed out that on the similar allegation the Respondent No.2 had also lodged First Information Report ('FIR' for short) dated 31.03.2019 with Ramanand Police Station, Jalgaon bearing Crime No. 139/2019. These Petitioners had filed Criminal Application No. 1481/2019 before this

Court. This Court by its judgment and order dated 20.01.2020 was pleased to quash the complaint. Thus, the submission is that even this Court has accepted that the allegations made by Respondent No.2 do not make out any case etc.

4. The note needs to be taken of the conduct of the Respondent No.2 that in spite of service on two times, she has not even bothered to come to this Court. This Court by order dated 03.03.2022 recorded that she had appeared in person in the Court and had expressed her inability to engage a lawyer. This Court therefore, had engaged Smt. Jape, learned APP to represent her (Respondent No.2 herein). Parties were also referred to the Mediation. However, report of Mediator dated 07.04.2022 shows Mediation is failed. Thereafter, the order dated 18.08.2022, 05.09.2022 shows that in spite repeated attempts on the part of learned Advocate Smt. Jape, there is no response from the Respondent No.2 at all. In this view of the matter, this Court has no option, but to accept the averment in the petition.

5. Considering the judgment dated 20.01.2020 passed by this Court

in Criminal Application No. 1481/2019, this Court comes to a conclusion that a case is made out for quashing of the proceeding i.e. PWDVA No.9/2019 pending before learned Judicial Magistrate First Class, Jalgaon under the D.V. Act. The Petition is therefore, allowed in terms of prayer Clause 'A' and disposed off accordingly.

6. Smt. Jape, learned Advocate for Respondent No.2 has been appointed by this Court. She is entitled to fees of Rs.7500/-.

[KISHORE C. SANT, J.]

Najeeb.