

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

CRIMINAL WRIT PETITION NO.399 OF 2022

- 1) Anil S/o Karbhari Khatal,
Age-52 years, Occu:Service,
R/o-Ghulewadi, Sai Nagar,
Tq-Sangamner, Dist-Ahmednagar,
- 2) Sow. Kamlabai Karbhari Khatal,
Age-75 years, Occu:Household,
- 3) Karbhari S/o Shankar Khatal,
Age-80 years, Occu:Agri.,

Both R/o-Dhandarphal, Tq-Sangamner,
Dist-Ahmednagar.

...PETITIONERS

VERSUS

- 1) Alka Anil Khatal,
Age-42 years, Occu:Household,
R/o-Ghulewadi, Tq-Sangamner,
Dist-Ahmednagar,
At present R/o-Chandnapuri,
Tq-Sangamner, Dist-Ahmednagar,
- 2) Mayuri D/o Anil Khatal,
Age-19 years, Occu:Education,
R/o-Ghulewadi, Tq-Sangamner,
Dist-Ahmednagar,
At present R/o-Chandnapuri,
Tq-Sangamner, Dist-Ahmednagar,

...RESPONDENTS

...
Mr.R.C. Bora Advocate h/f. Mr. Girish B. Kadlag Advocate
for Petitioners.
...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE : 8th JULY, 2022

ORDER :

1. Heard learned Advocate appearing for the petitioners. It is not even necessary to issue notice to the respondents taking into consideration the point raised.

2. The petitioners are the husband, mother-in-law and father-in-law, respectively, in relationship with respondent No.1. Marriage between petitioner No.1 and respondent No.1 was solemnized on 4th December 1998. It appears that present respondent No.1 had lodged the First Information Report (for short "FIR") vide Crime No.1037 of 2020 with Sangamner Police Station, District-Ahmednagar on 17th July 2020 for the offence punishable under Sections 498-A, 323, 504, 506 of the Indian Penal Code. After investigating the said FIR, charge-sheet has been filed before the learned Judicial Magistrate First Class, Sangamner vide R.C.C. No.44 of 2021. The case is pending.

3. It is then stated that present respondents have filed Misc. Criminal Application No.432 of 2020 before the learned Judicial

Magistrate First Class, Sangamner under Section 12 of the Protection of Women from Domestic Violence Act (for short "Domestic Violence Act") for various reliefs under the said Act. By this Petition, the petitioners, who are the respondents in the said application under the Domestic Violence Act, seek quashment of the said proceedings.

4. The grounds, for quashment of the said proceedings, those have been raised are that the said application has been filed with malafide intention and to extract money which petitioner No.1 has saved during his life time and had also purchased property in the name of respondent No.1. Now petitioner No.1 has retired from his military services. It is the contention on behalf of the petitioners that malafide intention can be seen from the fact that the entire family has been roped.

5. It is to be noted that both the cases are still pending and this Court, under its writ jurisdiction, cannot go into the disputed facts without there being any evidence. There is absolutely no supporting documents or evidence to support the contentions raised in the Petition. Merely because the petitioners are saying that proceeding has been filed with malafide intention, it cannot

be so judged when that proceeding itself is at an initial stage. No case is, therefore, made out to exercise the powers under the writ jurisdiction and the writ petition deserves to be dismissed.

6. The Writ Petition stands dismissed.

[SMT. VIBHA KANKANWADI , J.]

asb/JULY22