

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

907 CRIMINAL APPLICATION NO.998 OF 2021

AJAJ KHAN RASHIDKHAN PATHAN AND OTHERS

VERSUS

FARHEEN NAAZ FAISALKHA PATHAN AND ANR

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Advocate for Applicants : Mr. Pathan Zafar M.
APP for Respondent No.2-State : Mr. R. B. Bagul
Advocate for Respondent No.1: Mr. R. B. Gite

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CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 30-06-2022

ORDER :

1. Present application has been filed invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure for the quashment of the proceedings under Protection of Women from Domestic Violence Act, 2005 (PWDV Act) bearing No.08 of 2021 pending before Judicial Magistrate First Class, Partur District Jalna, filed by respondent No.1.

2. Though respondent No.1 was represented by Advocate earlier it appears that in view of the fact that her Advocate remained absent, notice was issued to her in respect of final hearing. That notice has

been served, however she has not caused any appearance.

3. Heard learned Advocate Mr. Z. M. Pathan for applicants and learned Advocate Mr. R. B. Gite for respondent No.1.

4. After the submissions on behalf of the applicants have been heard, when this Court showed disinclination to grant any relief to applicant No.1, the learned Advocate for applicants, on instructions, seeks withdrawal of the application as against applicant No.1. There is no hurdle in allowing that prayer.

5. As regards applicants No.2 to 4 are concerned, they are original respondents No.11, 12 and 13. In the application filed by present respondent No.1, their relationship has been stated as applicant No.2/original respondent No.11 is the brother-in-law of original respondent No.5. Original respondent No.5 is the father-in-law of respondent No.1 herein. Applicant No.3 is the wife of applicant No.2 and applicant No.4 is the son of applicants No.2 and 3. Applicants No.2 to 4 are resident of town Partur District Jalna whereas the matrimonial home of the present respondent No.1 was Newasa, Taluka Newasa, District Ahmednagar, which is far away. Respondent No.1 got married to original respondent No.1 Faisal

Khan on 09-08-2020. Perusal of the entire application would show that there are no allegations against original respondent No.11 to 13 i.e present applicants No.2 to 4. In Affidavit-in-reply the respondent No.1 has tried to contend that applicants No.2 to 4 are residing in front of the house of her father at Partur. Her rest of the allegations are the repetition of her application, but even in this affidavit-in-reply she has not stated any specific act of domestic violence against applicants No.2 to 4. Under such circumstances, the order that was passed by the learned Magistrate of proceeding the matter against the present applicants No.2 to 4 is wrong. The learned Magistrate ought to have considered as to whether all the respondents to the application are in domestic relationship and either staying or stayed in the past in the same share household. When these basic requirements are not fulfilled, the matter cannot be allowed to proceed against present applicants No.2 to 4. The application, therefore, deserves to be allowed as against them. Hence, following order.

ORDER

- 1) Application stands withdrawn as against applicant No.1, and it stands allowed as against applicants No.2 to 4.

- 2) The proceedings PWDV Application No.08 of 2021, filed before Judicial Magistrate First Class, Partur, District Jalna, by respondent No.1 under Section 12 of the PWDV Act stands quashed as against original respondents No.11 to 13.
- 3) In view of above, application stands disposed of.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.