

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD  
CRIMINAL APPLICATION NO.1807 OF 2022**

PRATIBHA SANJAY YELURE AND ANOTHER ..APPLICANTS

VERSUS

MEERA W/O. KUNAL KOTE AND OTHERS ..RESPONDENTS

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Mr. N. J. Patil, Advocate for the Applicants.

Mr. A. P. Yenegure, Advocate for Respondent Nos.1 and 2.

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**CORAM : SHRIKANT D. KULKARNI, J.**

**DATED : 14<sup>th</sup> SEPTEMBER, 2022.**

**PER COURT:-**

1. Heard Mr. N. J. Patil, learned counsel for the applicants and Mr. A. P. Yenegure, learned counsel for respondent nos.1 and 2 (appointed).

2. Mr. N. J. Patil, learned counsel for the applicants made it clear that respondent nos.3 to 6 are formal party to this application and no relief is sought against them. Respondent nos.1 and 2 are only contesting parties.

3. It is necessary to have a glance on few facts which would be relevant and important to decide this application for quashing of the proceedings initiated by respondent no.1 under the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as 'D.V. Act, 2005' for the sake of convenience).

4. The marriage between respondent no.1 and respondent no.3 was solemnized on 25.01.2015. Out of wedlock they blessed with one baby boy. It is

the contention of respondent no.1 that soon after the marriage she was subjected to harassment and cruelty at the hands of her husband, in-laws and distant relatives. She was subjected to domestic violence. She was even subjected to physical violence when she was residing in the matrimonial home. She continued her cohabitation under hope that everything would be alright after some passage of time, but unfortunately nothing happened positively. The situation became worst. She constrained to file complaint under the D.V. Act, 2005 before JMFC, Renapur and sought various reliefs against her husband, in-laws and other relatives.

5. Applicant nos.1 and 2 herein are stated to be married sisters of father-in-law of respondent no.1-Meera. It is not in dispute that they are permanent resident of Pune. Both of them are living with their family.

6. Mr. Patil, learned counsel for the applicants submitted that present applicants are married sisters of father-in-law of respondent no.1. They have no role to play in the day to day family affairs of respondent no.1 and her husband. They are residing with their families at Pune. Hardly they had any occasion to visit the matrimonial home of respondent no.1 only on certain occasions. They have been unnecessarily roped in a proceeding under the D.V. Act, 2005. He submitted that allegations levelled against the applicants in

the complaint under the D.V. Act, 2005 are vague and absurd. The provisions of D.V. Act, 2005 do not attract against them. The present applicants were also roped in an offences punishable under Section 498-A, 323, 294 and 506 r/w. Section 34 of the Indian Penal Code. The Division Bench of this Court was pleased to quash the FIR vide Crime No.163/2021 as well as charge-sheet and the proceeding on the file of learned JMFC in respect of these applicants. He submitted that the proceedings filed by respondent no.1 under the D.V. Act, 2005 is liable to be quashed and set aside.

7. Per contra, Mr. A. P. Yenegure, learned counsel for respondent nos.1 and 2 supported the allegations made in the complaint. He invited my attention to the relevant paragraphs of the complaint and submitted that there are specific allegations against present applicants. Both of them alleged to have practiced domestic violence against respondent no.1 alongwith husband and father-in-law of respondent no.1. In view of specific allegations attributed against both the applicants, it is not a fit case to quash the proceedings against the applicants. Let them face the prosecution according to provisions of law.

8. I have considered the submissions of learned counsel for both the sides. I have also gone through allegations leveled in the complaint.

9. The definition of domestic violence is given under Section 3 of the D.V. Act, 2005. It is also necessary to have a look on the definitions of "domestic relationship" and "shared household" defined under the D.V. Act, 2005 which reads as under:-

"2. Definitions.—

(f) "domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family;

(s) "shared household" means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or alongwith the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or

the aggrieved person has any right, title or interest in the shared household."

10. Having regard to the definitions of "domestic relationship" and "shared household", I have gone through pleadings made by respondent no.1/Wife in her application filed under D.V. Act, 2005. On careful examination of the pleadings, one would find that there are ominous allegations against the present applicants alongwith husband, in-laws and other relatives. Paragraph nos.2, 3, 4 and 5 speak that very beginning of the paragraphs start with opponent nos.1 to 6 and thereby the present applicants are roped in. On careful examination of the allegations levelled in the complaint, it would be clear that the allegations levelled against the applicants are general and of vague nature. No specific role is attributed against them in order to attract provisions of the D.V. Act, 2005.

11. It is an admitted position that the present applicants are married sisters of father-in-law of respondent no.1. They have no role to play in the day to day family affairs of respondent no.1, her husband and her in-laws. They are practically distant relatives of respondent no.1. They are permanent resident of Pune and both of them are residing with their respective families. In this background, it is difficult to attract definition of "domestic relationship" and "shared household" as contemplated under D.V. Act,

2005. Both the applicants seem to have been unnecessarily roped in the dispute of husband and wife, though they seem to have no concern. They never resided in the shared household with respondent no.1.

12. In case of **Suresh Bajarang Zarekar & Ors. Vs. State of Maharashtra & Ors., 2018 (4) Bom. C.R. (Cri.) 810**, this Court was pleased to quash the proceedings under D.V. Act, 2005 to the extent of distant relatives having regard to the vague allegations for want of domestic relationship. The facts of the cited case and the facts of the case in hand are practically similar and identical. The allegations levelled against the present applicants even if taken at its face value and accepted, it would be difficult to attract the provisions of the D.V. Act, 2005.

13. Having regard to the principles laid down in the case of **State of Haryana and Others Vs. Ch. Bajan Lal and Others, AIR 1992 Supreme Court 604**, present case is governed by category no.1. It would be an abuse of process of the Court if the proceedings under the D.V. Act, 2005 is allowed to continue against present applicants in view of the absurd allegations and for want of domestic relationship and shared household as contemplated under the D.V. Act, 2005. It is usual tendency of the party to rope as many as family members out of family dispute, perhaps because of anger towards the family of husband. It may cause harassment to

those distant relatives who have no role to play in day to day domestic affairs or family affairs of husband and wife.

14. Having regard to the facts of the case and in view of the allegations levelled against the present applicants in a complaint under the D.V. Act, 2005, it is a fit case to quash the proceedings against them by invoking inherent powers vested with this Court under Section 482 of the Code of Criminal Procedure to their extent to prevent abuse of the process of law.

15. Having regard to the guidelines laid down by the Hon'ble Supreme Court in above referred citation in **State of Haryana and Others Vs. Ch. Bajan Lal and Others** (supra) and considering the facts of the case in hand, it is a fit case to quash the proceeding filed by respondent no.1 against present applicant nos.1 and 2 under the D.V. Act, 2005. The proceedings under the D.V. Act, 2005 may proceed against the husband and parents-in-law according to the D.V. Act, 2005. In the result, the application needs to be allowed as under:

#### **ORDER**

- I. The Criminal Application is hereby allowed in terms of prayer Clause (B).
- II. The Trial Court may proceed with the proceeding under the Protection of Women from Domestic Violence Act, 2005 against

the husband, parents-in-law and other relatives according to the law.

III. The Criminal Application is accordingly disposed off. No orders as to costs.

**(SHRIKANT D. KULKARNI)**  
**JUDGE**

Devendra/September-2022