

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

919 CRIMINAL WRIT PETITION NO.727 OF 2021

- 1] Sandeep S/o Shantaram Sonawane.
- 2] Kamalbai W/o Shantaram Koli.
- 3] Vishal S/o Shantaram Koli.
- 4] Manisha W/o Nathu Magre.
- 5] Nathu S/o Kautik Magre.
- 6] Sunita W/o Gokul Deore.
- 7] Gokul S/o Sitaram Deore.
- 8] Prakash S/o Omkar Rokade.
- 9] Anita W/o Prakash Rokade.
- 10] Sangeeta W/o Kanhaya Shinde.
- 11] Pooja D/o Devendra Koli.
- 12] Ganesh S/o Santosh Chavan.
- 13] Kalpana W/o Ganesh Chavan. **... Petitioners**

Versus

- 1] Yeshomati W/o Sandeep Sonawane.
- 2] Sanskrit D/o Sandeep Sonawane,
U/G. of Respondent No.1. **... Respondents**

...
Mr. Dhananjay A. Mane, Advocate for Petitioners.
Mr. S. P. Deshmukh, APP for Respondent/State.
...

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

DATE : 03rd August, 2022.

PER COURT:

. The petitioners are seeking quashing of the proceedings under the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as the "DV Act") filed by respondent No.1- Yeshomati vide Miscellaneous Criminal Application No.171 of 2021 pending before the learned Judicial Magistrate First Class at Shirpur under Sections 12, 18, 20 and 22 of the said DV Act by taking aid of Article 227 of the Constitution of India.

2 Respondent Nos.1 and 2 were served initially with notice, but they remained absent. This Court again issued notice to both the respondents for final disposal of the petition. In spite of proper service of notice for final disposal of this petition, both the respondents remained absent.

3 Heard Mr. D. A. Mane, learned counsel for the petitioners.

4 The learned counsel for the petitioners invited my attention to the copy of FIR filed by respondent No.1/wife with Thalner Police

Station, District Dhule, for the offences punishable under Sections 498-A, 323, 504 and 506 read with 34 of the Indian Penal Code. He submitted that practically all family members and distant relatives are made as accused in the above said crime. The same is the position of filing proceedings under the DV Act vide Miscellaneous Criminal Application No.171 of 2021. He pointed out that the Division Bench of this Court was pleased to quash the above said FIR to the extent of present petitioner Nos.3 to 13. Mr. D. A. Mane, learned counsel for the petitioners seeks leave to place on record copy of order passed in Criminal Application No.1341 of 2021 (Coram: V. K. Jadhav and Sandipkumar C. More, JJ.) dated 22nd March, 2022.

5 He submitted that though petitioner Nos.3 and 4 are not residing with respondent No.1, they have been arrayed in the proceedings under the DV Act. He pointed out that respondent Nos.4, 6, 9 and 10 are married sister-in-laws of respondent No.1 and they are residing with their husbands in their respective matrimonial places. Their husbands have also been roped in the proceedings under the DV Act, who are petitioner Nos.5, 7 and 8. He further pointed out that the petitioner No.11 happens to be niece of respondent No.1, petitioner No.12 happens to be cousin father-in-law and petitioner No.13 happens to be wife of petitioner No.12. He submitted that the allegations levelled against them are very much of vague nature. The

provisions of the DV Act do not attract against them. He also invited my attention to the definitions of “aggrieved person”, “domestic relationship”, “monetary relief”, “respondent” and “shared household”. He submitted that the proceedings filed by respondent No.1 against the above said petitioners as well as husband and in-laws, is only with a view to harass them. The proceedings is not at all maintainable against them. In view of the provisions of the DV Act, the proceedings filed by respondent No.1 under the DV Act against the petitioners is liable to be quashed.

6 He has placed his reliance upon the order passed by the learned Single Judge Bench of this Court in Criminal Application No.2471 of 2018 (Coram: Smt. Vibha Kankanwadi, J.) dated 17th December, 2019. He submitted that in identical facts, this Court was pleased to quash the proceedings against the distant relatives.

7 I have considered the submissions of Mr. Mane, learned counsel for the petitioners. On going through the copy of order passed in Criminal Application No.1341 of 2021 (marked ‘X’ for identification), it would be clear that the Division Bench of this Court (Coram: V. K. Jadhav and Sandipkumar C. More, JJ.) vide order dated 22nd March, 2022 was pleased to quash the FIR vide C.R. No.71 of 2021, registered with Thalner Police Station, District Dhule against the

present petitioner Nos.4 to 13. It is observed by the Division Bench of this Court that the allegations levelled against them are general and absurd in nature.

8 The same is the case in respect of the proceedings filed against the present petitioner Nos.4 to 13. The entire family members have been roped in the proceedings under the DV Act. The allegations levelled against petitioner Nos.4 to 13 are very much vague and *prima-facie* the provisions of the DV Act do not attract. Admittedly, petitioner Nos.4 to 13 are not residing with respondent No.1. They have not shared household as contemplated under Section 2(s) of the DV Act. Even for the sake of moment accepted that petitioner Nos.4 to 13 are casually visiting the matrimonial house of respondent No.1, it cannot be termed as “domestic relationship” defined under Section 2(f) of the DV Act. As pointed out earlier, the married sister-in-laws and their husbands and distant relatives have been roped in proceedings under the DV Act at the hands of respondent No.1 without sufficient material against them. As such, the proceedings filed by respondent No.1/wife against the petitioner Nos.4 to 13 need to be quashed. Needless to say that the proceedings would proceed further against remaining petitioner Nos.1 to 3, who are husband, mother-in-law and brother-in-law.

ORDER

- I. The criminal writ petition stands partly allowed.
- II. The proceedings of Miscellaneous Criminal Application No.171 of 2021 pending on the file of the learned Judicial Magistrate First Class at Shirpur (under the Protection of Women from Domestic Violence Act, 2005), is hereby quashed to the extent of present petitioner Nos.4 to 13 (Manisha Nathu Magre, Nathu Kautik Magre, Sunita Gokul Deore, Gokul Sitaram Deore, Prakash Omkar Rokade, Anita Prakash Rokade, Sangeeta Kanhaya Shinde, Pooja Devendra Koli, Ganesh Santosh Chavan and Kalpana Ganesh Chavan).
- III. Needless to state that the proceedings filed against present petitioner Nos.1 to 3 to continue.
- IV. The petition is disposed of accordingly.

[SHRIKANT D. KULKARNI, J.]