

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

21 CRIMINAL WRIT PETITION NO.962 OF 2022

**ASHA @ KALPANA W/O DIPAK SATHE AND OTHERS
VERSUS
MANJUSHA W/O PRITAM SALVE**

Mr.Rajendra Sudam Kasar, Advocate for the petitioners.

Mr.N.B. Narwade, Advocate for sole respondent.

**CORAM : KISHORE C. SANT, J.
DATED : 14.11.2022**

PC :-

01. Heard learned advocate for the petitioners and learned APP for the respondent/State.

02. At the outset, learned Advocate for the petitioners seeks to withdraw this petition to the extent of petitioner No.5. The petition is disposed off as withdrawn to the extent of petitioner No.5.

03. By this petition, the petitioners are praying for quashing and setting aside proceedings bearing Criminal Misc. Application No.232 of 2021 filed by the respondent and pending before the Court of JMFC, Rahuri file under the provisions of the Domestic Violence Act.

04. The learned Advocate for the petitioners submits that petitioner Nos.1,2,4 and 5 are sisters-in-law of the respondent. Petitioner No.3 is husband of petitioner No.2. He submits that the petitioners are residing at

separate address and not residing with the respondent. He has annexed to the petition Aadhar card of petitioner Nos.1 to 3. He has further annexed copy of allotment of quarter in the name of petitioner No.4. Thus, he submits that they all are residing at a different and separate place. He submits that there is no domestic relation between the respondent and the petitioners as such. Further he points out the averments in the complaint. He submits that the allegations are vague and are general in nature. No specific circumstances are given in the complaint.

05. The learned Advocate for the respondent Mr. Narwade pointed out from para 4 of the complaint that on 23.12.2019, the respondent was beaten by her husband in presence of these petitioners except petitioner No.4.

06. After hearing submissions of the parties and after going through the documents, this Court is of the opinion that the allegations as against the petitioners are vague and cannot be said to be attracting provisions of the Domestic Violence Act.

07. Learned Advocate for the petitioners also invited attention to the judgment and order passed by this Court in Criminal Writ Petition No.1702 of 2018. This petition was filed challenging the proceedings under section 498-A of the Indian Penal Code lodged by the respondent. This Court was pleased to quash and set aside the complaint under section 498-A of the IPC in that petition. Only petitioner Nos.4 and 5 were before this Court and this Court was pleased to quash and set aside the proceedings against the petitioners in

that petition. The learned Advocate further invited attention to the judgment and order passed by this Court in Criminal Writ Petition No.794 of 2019 dated 24.09.2019 to submit that in similar circumstances, this Court has quashed and set aside the proceedings under the Domestic Violence Act.

08. Though the judgments passed by this Court are shown in similar circumstances, it is trite that each case needs to be tested in the facts of that particular case. No general rule can be made, as such. There are no allegations against petitioner Nos. 1 to 4 and they are not the persons residing with the respondent and these cannot be said to be persons falling under the definition of Section 2(f) of the Domestic Violence Act and therefore to their extent the proceedings need to be quashed. Hence, following order :-

ORDER

- i) The writ petition is partly allowed.
- ii) The proceedings initiated against petitioner Nos.1 to 4 bearing Criminal Misc. Application No.232 of 2021 pending before the Judicial Magistrate, First Class, Rahauri, Dist. Ahmednagar, is quashed and set aside to their extent.

[KISHORE C. SANT, J.]