

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

907 CRIMINAL APPLICATION NO.3058 OF 2021

KANIFNATH ANNA PAWAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicants : Mr. Jayabhar Dattatraya R.
APP for Respondent No.1-State : Mr. A. M. Phule
Advocate for Respondent No.2 to 4: Mr. Y. S. Choudhari
...

**WITH
CRIMINAL APPLICATION NO.3053 OF 2021**

PANDURANG DAGADU MOHITE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicants : Mr. Jayabhar Dattatraya R.
APP for Respondent No.1-State : Mr. A. M. Phule
Advocate for Respondent No.2 to 4: Mr. Y. S. Choudhari
...

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 14-06-2022

ORDER :

1. Both the applications have been filed under Section 482 of Cr.P.C. for quashing an setting aside the proceedings in Criminal Misc. Appln.No.258 of 2021 pending before J.M.F.C., Akole, District Ahmednagar, filed by the present respondents No.2 to 4 under Section 12 of the P.W.D.V. Act for various reliefs under the said Act.

2. Heard learned Advocate Mr. D. R. Jayabhar for applicants, learned APP Mr. A. M. Phule for respondent No.1-State, and learned Advocate Mr. Y. S. Choudhari for respondents No.2 to 4.

3. The applicants in Criminal Appln. No.3053 of 2021 are the father-in-law, mother-in-law, brother-in-law and sister-in-law (wife of brother-in-law) of the original aggrieved person No.1 i.e. the present respondent No.2. In Criminal Appln.No.3058 of 2021 applicant No.1 is the husband of applicant No.2, applicant No.2 is the sister-in-law of the mother-in-law of respondent No.2 (original aggrieved person No.1) and applicant No.3 is the daughter of applicants No.1 and 2 and she got married on 06-06-2021.

4. The facts giving rise to the original applicant are stated as that respondent No.2 got married to the son of original respondents No.1 and 2 on 21-03-2011 at village Deothan Taluka Akole, District Ahmednagar. Original aggrieved persons applicants No.2 and 3 are the children from the said wedlock. It is stated that after respondent No.2 herein started cohabiting with her husband and the in-laws, she was treated properly for about a year, and thereafter, original respondents No.1 to 4 started harassing her on the count

that she is unable to cook food properly and her father has not spent much at the time of marriage. It is then stated that original respondents No.5 to 7 i.e. the present applicants in Cri.Appln.No.3058 of 2021 who are residing in the neighbourhood used to visit the matrimonial home of the aggrieved persons and used to instigate the in-laws and husband of the aggrieved person. Husband of the aggrieved person expired on 04-12-2018, and thereafter, there was dispute in respect of the property. It is then stated that original respondents No.1 and 2 had withdrawn certain amount of the policy and pension scheme which was received after the death of her husband and according to her the rest of the amount has been utilized by them. It is then stated that those persons were mentally and physically harassing her by raising suspicion. All the applicants were then sent to the parental home of applicant No.1 during COVID-19 period. She also states that the medical claim amount has also been misappropriated by the original respondent No.3 after she had become COVID positive and her brother had incurred huge expenses. It is then stated that she along with her children were driven out of the house on 18-10-2021, and therefore, he has filed the application for various reliefs including the maintenance, order in respect of residence, prohibition,

compensation and recovery of the amount.

5. Taking into consideration the contents of the application it can be seen that original respondents No.1 to 4 were residing in the same shelter home and there are specific allegations about the domestic violence against them. Therefore, no case is made out for exercising the powers of this Court under Section 428 of Cr.P.C. against them. However, as regards the applicants in Cri.Misc. Application No.3058 of 2021 is concerned, admittedly they were not residing in the same shelter house, but it is stated that they were residing in the neighbourhood. Only one line omnibus statement has been made that they used to instigate original respondents No.1 and 2, and thereafter, suspicion was raised against the aggrieved person No.1. However, it is to be noted that those allegations are in respect of the period prior to the death of husband of aggrieved person No.1. No allegations against them have been made after 04-12-2018 in the entire application. All those allegations in the later part are against original respondents No.1 to 3. However, in respect of the original respondent No.4 who is residing in the same shared house, there are allegations and therefore proceedings cannot be quashed against her. Case is made out only to quash the

proceeding against original respondents No.5 to 7. Hence, following order.

ORDER

- 1) Criminal Application No.3053 of 2021 stands dismissed.
- 2) Criminal Application No.3058 of 2021 stands allowed.
- 3) The proceedings in Criminal Misc.Application No.258 of 2021 before J.M.F.C., Akole District Ahmednagar stands quashed and set aside as against original respondents No.5 to 7 only.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.