

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

906 CRIMINAL APPLICATION NO.3681 OF 2018

**SHAIKH TAHER RAJU AND ANR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr.Y.V. Kakade, Advocate for the applicants.
Mrs.D.S. Jape, APP for the respondent/State.
Mr.Nikhil S. Jaju, Advocate for respondent Nos.2 to 4.

**CORAM : KISHORE C. SANT, J.
DATED : 30.11.2022**

PC :-

01. Heard learned Advocates for the parties. Taken up for final disposal by consent.

02. The application is filed for quashing of the proceedings bearing Criminal M.A. No.186 of 2017 filed by respondent Nos.1 to 3 under the provisions of the Protection of Women from Domestic Violence Act [hereinafter referred to as "DV Act"]. Applicant No.1 is husband of applicant No.2; whereas applicant No.2 is sister-in-law of respondent No.2. By filing Misc. application, the respondents claimed various reliefs. It is case of the respondents that husband of respondent No.2 died on 06.01.2014.

Respondent No.1 in Criminal M.A. is brother of deceased. Respondent No.2 is wife of respondent No.1. Respondent No.3 is another brother-in-law of present respondent No.2. Respondent No.4 is his wife. Thus the present applicants are respondent Nos. 5 and 6 respectively in the said proceedings. It is averred in the complaint that these applicants are residing in the neighbourhood and therefore present applicant No.2 had taken responsibility of the family. In para 4 of the complaint, there is averment that all the respondents in the application were forming joint family; wherein present applicant No.2 was taking all the major decisions. Even financial aspects were looked after by present applicant No.2. It is further alleged that deceased husband of respondent No.2 had purchased properties in the name of the respondents in the application. In para 5 there is averment that after the death of husband of present respondent No.2 she stayed with the family and the applicants used to take work from her. However, later-on, they started ignoring the applicants before the Trial Court. In para 8 she stated that when present respondent No.2 and children had been to the applicants, she was assured that he would make arrangement for the finance. However, later-on, he refused to take any responsibility.

03. It is submission of learned Advocate for the applicants that these applicants are unnecessarily dragged in the litigation. There is no domestic relationship between the parties. They never had any shared house hold. He took this this Court through the judgment reported in **AIRONLINE 2020 SC 784** in the case of **Satish Chander Ahuja Vs. Sneha Ahuja**, specifically through para 27, wherein the Hon'ble Apex Court has considered the scope of definition of 'shared household' and in that case the proceedings under the DV Act were set aside. He also invited attention of this Court to para 47, wherein specific questions were framed by the Court and those are answered in para 84 as below :-

“84. In view of the foregoing discussions, we answer issue Nos.1 and 2 in following manner :-

(i) The definition of shared household given in Section 2(s) cannot be read to mean that shared household can only be that household which is household of the joint family of which husband is a member or in which husband of the aggrieved person has a share.

(ii) The judgment of this Court in S.R. Batra Vs. Taruna Batra (supra) has not correctly interpreted Section 2(s) of the Act, 2005 and the judgment does not lay down a correct law.”

04. He further relied upon another judgment in Criminal Application **(APL) No.166 of 2019** of this Court (Nagpur Bench) in the case of **Sanket s/o.**

Ravindra Dhonge and ors. Vs. State of Maharashtra & Ors. He invited attention of this Court to para Nos.11 and 12 of the judgment. This Court in the said judgment has considered that prayers were only against husband and the reliefs were sought only against husband. The learned Advocate submits that in this case also prayers are vague and there is no specific prayer against present applicants. He further relied upon judgment reported in **2015 ALL MR (Cri) 3618** in the case of **Devanand Baliram Wankhade & Ors. Vs. The State of Maharashtra and Anr.** to point out that there are general statements against all the applicants about mental and physical harassment and no specific allegation against relatives of the husband was made out so as to attract ingredients of provisions of DV Act. He further relied upon two more judgments i.e. **2016 ALL MR (Cri) 4232** in the case of **Maroti s/o. Domaji Ramteke & Ors. Vs. The State of Maharashtra & Anr.** and another judgment reported in **2018 ALL MR (Cri) 4508** in the case of **Prabhakar Mohite & Anr. Vs. The State of Maharashtra & Anr.** In the case of **Maroti (Supra)** the question before the Court was - whether second wife or the lady with whom husband has extra-marital relations can be said to be a family member or relative of the husband and in that case it was answered that she cannot be termed as a person having domestic relationship.

. In the case of **Prabhakar (Supra)** it was held that the petitioners had at no any point of time lived in shared premises held with the respondent and therefore domestic relationship between them was not established.

05. With due respect, this Court is of the opinion that none of the cases are applicable to the facts of the present case, in view of specific averments in paras 4,5 and 8 of the complaint.

06. Learned Advocate for the respondent submitted that there are specific allegations against present applicants, which are sufficient to show at least prima facie that there is domestic relations between the parties. He also invited attention to the specific averment that there was joint family of the respondents including present applicants. Further, it has come in para 8 that applicant No.2 said that now there is no relations between them and respondent No.2, which suggests that earlier there were relations.

07. After considering all these submissions and considering the ratio from the judgments cited by the parties, this Court comes to a conclusion that prima facie there are sufficient averments in the complaint before the Trial

Court attracting the provisions of the DV Act even against the present applicants. This Court thus finds that there is no ground made out calling for interference at the hands of this Court either under section 482 of the Cr.PC. nor under Article 227 of the Constitution of India. Thus, the application stands dismissed.

08. It is made clear that all these observations are only for the purpose of deciding this application and the Trial Court shall not be influenced by the same.

[KISHORE C. SANT, J.]