

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 19 OF 2022

Deepak Arvind Khot and Anr. ...Applicants
Versus
The State of Maharashtra and Anr. ...Respondents

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Mr. Abhijit Desai a/w Mr. Karan Gajra i/by Desai Legal Advocate for the Applicants.

Ms. Deepti Chand for Respondent No.2.

Mr. A.D. Kamkhedkar, A.P.P. for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.
DATE : 4th AUGUST, 2022.

PER COURT:

1. The applicants have invoked inherent powers under Section 482 of Cr.P.C. challenging the proceedings initiated by respondent No.2 vide Criminal M.A. No.262 of 2021 under Section 12 of the Protection of Women from Domestic Violence Act, (hereinafter referred to as “D.V. Act”).

2. The Applicant No.1 is husband and Applicant No.2 is mother-in-law of respondent No.2. The marriage between Applicant No.1 and respondent No.2 was solemnized on 10.06.2006. The application under the provisions of D.V. Act is preferred by respondent No.2 seeking relief under Sections 3,19(1)(d), 21, 22 of

the D.V. Act.

3. The respondent No.2 has alleged that, after the marriage from 10.06.2006 to 26.06.2006, the Applicant No.1 and respondent No.2 started residing at Ghatkopar. The respondent No.2 was employed. Although she had expressed her desire to continue to work after marriage, the applicants objected for the same. It is alleged that, she was ill treated. She was required to quit her job which resulted in financial loss to her. The respondent No.2 was insulted by the opponents. In 2017, the respondent No.2 delivered a baby boy and in 2019, she delivered a baby girl. Due to torture by Applicant No.1, the parents of respondent No.2 mortgaged their house. New house was purchased. The Applicant No.1 was having an affair with a lady. The applicant No.1 had stopped the payment of monthly installment of house which was bought after selling the jewellery of respondent No.2. The application contains several other allegations which according to respondent No.2 resulted in physical and mental torture to her.

4. Learned Advocate for the Applicants submitted that, there are no instances of domestic violence. The allegations in the application preferred by respondent No.2 are after thought. The marriage between Applicant No.1 and respondent No.2 was

solemnized in the year 2006. The proceedings under the D.V. Act, were initiated belatedly in 2021. Taking the allegations as it is, the application does not make out instances of any domestic violence. The learned Magistrate has erroneously taken cognizance of the application preferred by respondent No.2. Continuation of such proceedings would be an abuse of process of law. There are no specific instances in the application, wherein actual act of domestic violence was inflicted by Applicants upon respondent No.2. The allegations are ambiguous in nature. There is no domestic incident report attached to the application. The applicant No.2 is a senior citizen. She has been deliberately dragged in the impugned proceedings. The applicant No.2 had never lived together with complainant. The trial Court has failed to take into consideration the definition of domestic relationship and shared household. The correct interpretation of the aforesaid definition would indicate that, applicant No.2 had no role to play in the relationship between applicant No.1 and respondent No.2. Reliance is placed on the decision of this Court in the case of Vijayalaxmi Dineshchandra @ Balasaheb Aragade and Others Vs. The State of Maharashtra and Another delivered in Criminal Application No.517 of 2020.

5. Learned Advocate for respondent No.2 has relied upon the

affidavit-in-reply filed on behalf of respondent No.2. It is submitted that, the application filed by respondent No.2 provides details of instances of domestic violence committed by the Applicants against respondent No.2. The respondent No.2 faced emotional and verbal abuse at the instance of applicants. There was economic abuse. The application filed by respondent No.2 sets out the domestic violence suffered by her at the instance of applicants. There are enormous instances set out in her application which constitutes acts of domestic violence. The applicant No.1 has gone on a property purchasing spree. He has created liability in the name of respondent No.2. He had also created loans against the property of the father of respondent No.2. The Application contains allegations of adultery against Applicant No.1. The *streedhan* of respondent No.2 was used for purchasing the property. The role has been assigned to both the applicants. There was domestic relationship between respondent No.2 and applicants.

6. I have perused the application preferred by respondent No.2 and the documents on record. The respondent No.2 has provided the details about the nature of her relationship with applicant No.1. There are detailed instances of mental and physical torture caused

by applicant No.1 to respondent No.2. The allegations attributed to applicant No.1 are prima facie in the nature of domestic violence. The instances are elaborated in the application preferred under Section 12 of the D.V. Act. The primary reliefs in the application under the domestic violence is sought against the applicant No.1. No case is made out for quashing the proceedings against the applicant No.1. The applicant No.2 is the mother-in-law of respondent No.2. The impugned application proceeds against the applicant No.1 with instances of incidents of domestic violence. However, the allegations against Applicant No.2 are absolutely vague. The applicant No.2 is aged around 65 years. There is no material to opine even prima facie that the applicant No.2 had indulged in acts of domestic violence. Considering the lack of material against Applicant No.2, the proceedings against the said applicant cannot continue. Hence, the applicant No.2 can be exonerated from the impugned proceedings. However, specific case is made out against Applicant No.1 and he is not entitled for any reliefs sought in this application. Hence, I pass the following order :

ORDER

- (i) Criminal Application is partly allowed.

- (ii) The prayer for quashing impugned proceedings in Criminal Misc. Application No. 262 of 2021 pending before the Court of JMFC, Vashi qua the applicant No.1 is rejected.
- (iii) Impugned proceedings in Criminal Misc. Application No. 262 of 2021 initiated by respondent No.2, under Protection of Women from Domestic Violence Act, pending before Court of JMFC, Vashi are quashed as against applicant No.2.
- (iv) Application is disposed of.

(PRAKASH D. NAIK, J.)