

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1565 OF 2022

Vishal Ashok Jadhav and anr .. Petitioners
Versus
The State of Maharashtra & Ors .. Respondents
...

Mr. Vishal Rankhambe for the petitioners.
Mr. Dinesh P. Adsule with Ayesha Momin for respondent no.2.

CORAM: BHARATI DANGRE, J.
DATED : 17th JUNE, 2022

P.C:-

1 The Petition is filed being aggrieved by the finding rendered by the learned Magistrate, Pune and the District and Sessions Judge in Appeal filed u/s.29 of the Domestic Violence Act to the effect that the aggrieved person i.e. the wife who has instituted the proceedings before the Magistrate in Pune, is residing in Pune and the Magistrate in Pune had jurisdiction to entertain the proceedings.

2 The respondent wife instituted proceedings under Domestic Violence Act in the Court of Judicial Magistrate First Class, Pune vide Application No.3802/2018. In the said application, she has given her address as resident of Ghorpade

Peth, Joshi wada, Pune. On narrating the domestic violence faced by her, she specifically averred in the application that she is residing at the address given in the application and it is her permanent address and after the marriage, and at present, she is residing on the given address.

While pleading the jurisdiction of the Court in paragraph no.14, she asserted that she is residing within the jurisdiction of the said Court on the address given in the title clause.

2 The respondent husband filed an application raising an objection to the jurisdiction of the Court by stating that the applicant wife is presently serving in Mumbai and therefore, just to harass him, she has instituted the proceedings in Pune.

3 The learned Magistrate considered the objections raised to its jurisdiction and recorded that the applicant is specifically contending that she is residing at the address given in the application, and she had filed receipt of electricity bills of the place which has mentioned her address. The application was rejected on the said ground and the same order has been upheld by the trial Court.

Section 27 of the Protection of Domestic Violence Act, 2005 reads thus :-

“27 Jurisdiction – (1) The Court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which

- (a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or
 - (b) the respondent resides or carries on business or is employed; or
 - (c) the cause of action has arisen,
- shall be the competent Court to grant a protection order and other orders under this Act and to try offences under this Act.
- (2) Any order made under this Act shall be enforceable throughout India”.

4 The purpose to the Domestic Violence Act, 2005 being to provide more effective protection of the rights of Women guaranteed under the constitution who are victims of the Domestic Violence of any kind operating through the family, has to be construed in the wake of the objective of the said enactment. The statutory provision conferring the jurisdiction on the Magistrate being multiple options where the proceedings can be instituted, and this include the local limits of the Metropolitan Magistrate where the person agree, either temporarily or permanently resides or carry on business or is employed, apart from the place where the respondent reside or carry on business or where the cause of action has arisen.

The aforesaid provision being liberally worded permit the aggrieved person to institute proceedings before any of the Magistrate, by giving the multiple options and therefore, when the person aggrieved is even temporarily residing at the particular

place, that can be a place where the proceedings can be filed. The enactment being a beneficial piece of legislation to protect woman from domestic violence, any interpretation which weighs in favour of the aggrieved person, must be chosen over the one which would denude her of the jurisdiction of a particular Court. In the application, the applicant has specifically pleaded that after separating from the husband, she is residing at Pune and the burden therefore, shift upon the respondent husband to demonstrate that she is not residing with her. By merely placing on record from one Unique Health Care and Medical Services Pvt.Ltd, without referring to any date or period when she was working as a trainee in the said department, will not be sufficient to dislodge her claim that the applicant was residing in Pune. In any case, even if she temporarily shift her abode to her place of work, her permanent residence as pleaded by her, continue to be in Pune. Since the respondent husband was unable to dislodge her claim, pleading the jurisdiction of the Magistrate in Pune to entertain her application filed under the Domestic Violence Act, 2005, the two Courts have rightly rejected the Application.

5 I do not find any legal infirmity in the two orders. Upholding the same, the Writ Petition is dismissed.

(SMT. BHARATI DANGRE, J.)