

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

WRIT PETITION NO. 928 OF 2022

Pushpa Arun Malve and Ors. ...Petitioners
vs.
Rama Ganesh Malve and Ors. ...Respondents

Mr. S. R. Rajepandhare - Advocate for the Petitioner
Ms. A. S. Pai - PP for the Respondent-State

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

DATE : 11th APRIL, 2022

P. C. :-

1. Not on board. Taken on board. It is mentioned out of urgency.
2. This Writ Petition is filed by both the Petitioners thereby challenging initiation of the proceedings under the provision of Sections 12, 18, 19, 20 and 22 of the Protection of Women from Domestic Violence Act, 2005. These Petitioners are Respondents before the Court of JMFC, Ghodnadi-Shirur, District Pune in Criminal Misc. Application No. 487 of 2021.
3. It is submitted that these Petitioners there is an ex-parte Order. It is submitted that they are not staying with the husband of the contesting Respondent/Complainant before the domestic violence case. Whereas they are staying at Pandharpur and the matrimonial house is situated at Shirur, District Pune. There are various reliefs sought in that Domestic violence

case. Now the matter is fixed before the Magistrate Court on 22/04/2022 for arguments of Respondents.

4. The learned counsel for the Petitioners submitted that there are various judgments given by this Court on the point that in what contingencies domestic violence case is maintainable and according to him, the observations therein are applicable to the facts in this case.

5. In fact when there is an ex-parte Order passed against these Petitioners, we feel that better course of action is go and approach before the concerned Magistrate.

6. On these grounds, we feel that approaching the learned Magistrate is best remedy available. Whatever grievance the Petitioners are having they can agitate before the concerned Magistrate and we do not feel that filing Writ petition is a proper remedy. There are at liberty to approach learned Magistrate and show cause why they were prevented by appearing before the learned Magistrate. If such application is filed learned Magistrate decide the application on merits. Observations made herein will not come in the way of the Petitioners if they chooses approach before learned Magistrate. For above discussion, we do not find it necessary to list the matter hence the Petition is dismissed.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)