

1. Heard both sides for final disposal.
2. The respondent No.2 filed application under Section 12 of Protection of Women from Domestic Violence Act before the Court of Metropolitan Magistrate, 65<sup>th</sup> Court At Andheri, Mumbai.
3. In paragraph No.2 of the said application/complaint the petitioner has been described as employer/partner of respondent No.1 therein.
4. In the complaint, the primary allegations are against the husband of respondent No.2. It is alleged that

petitioner was conniving with other respondents. The husband of respondent No.2 is carrying on business with petitioner. The respondent No.2 has prayed for relief under Sections 12, 18, 19, 20 and 22 of said Act. The relief are claimed against other respondents in the said proceedings.

5. Learned advocate for petitioner submitted that on reading definition of aggrieved person incorporated under Section 2-a of the Act as well as the definition of domestic relationship under Section 2-f of the said act, the petitioner ought not to have been impleaded as respondent in the impugned proceedings. Even otherwise, on reading the entire application under Section 12 of the Domestic Violence Act, no relief can be granted against the petitioner. He has been implicated being friend of husband of respondent No.2. In the complaint to police, the petitioner has been described as friend of husband of respondent No.2.

6. Learned advocate appointed to represent respondent No.2 submits that role has been ascribed to respondent No.2 in the complaint filed under Section 12 of the Domestic Violence Act. She also referred to the definition of respondent incorporated under Section 2-q of the Act and

submitted that the petitioner can be impleaded as respondent in the proceedings.

7. In the police complaint forwarded by respondent No.2, the petitioner has been ascribed as friend of her husband and in the complaint and under the Domestic violence Act it is stated that the petitioner is the employer/partner of her husband.

8. The relief claimed in the impugned complaint cannot be granted against petitioner. Section 2(a), 2(f) and 2(q) of the Protection of Women from Domestic Violence Act reads as follows:

2.(a) "aggrieved person" means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;

(f) "domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family;

(q) "respondent" means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:

9. Thus, 'aggrieved person' means any women who is, or has been, in a domestic relationship with respondent and who alleges to have been subjected to any act of domestic

violence by respondent. The respondent no.2 herein is not in domestic relationship with petitioner. 'Domestic relationship' means a relationship between two persons who live or have, at any point of time, lived together in shared household, when they are related by consanguinity, marriage or through relationship in the nature of marriage, adoption or are family members living together as a joint family. The petitioner does not fall in this category. 'Respondent' as defined under the act is adult male who is or has been in a domestic relationship with the aggrieved person and against whom aggrieved person has sought any relief under this Act. Provided that an aggrieved wife or female living in a relationship in the nature of marriage may also file a complaint against a relative of the husband or male partner. The petitioner cannot be impleaded by invoking proviso to the aforesaid provision. No case is made out for prosecution the petitioner in the impugned proceedings.

### **ORDER**

- (i) Writ Petition No. 3241 of 2021 is allowed.
- (ii) The proceedings in Domestic Violence complaint No. 130 of 2020 pending before the Court of Metropolitan Magistrate 65<sup>th</sup> Court, Andheri are quashed and set aside

qua the petitioner.

(iii) Writ petition stands disposed of.

**(PRAKASH D. NAIK, J.)**