

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO.526/2022

Abhishek s/o Girishchandra Verma and another

...Versus...

State of Maharashtra, Through Police Station Officer, Bhandara and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri N.R. Kanungo, Advocate for applicants
Mrs. M.H. Deshmukh, APP for non-applicant no.1

CORAM : AVINASH G. GHAROTE, J.

DATE : 29/04/2022

1. Heard Shri Kanungo, learned Counsel for the applicants.
2. The application seeks to quash the domestic violence proceedings initiated by the non-applicant no.2, the wife of the applicant and sister-in-law of applicant no.2. It is submitted by Shri Kanungo, learned Counsel for the applicants that the date of marriage is 01/02/2017; the wife left the husband on 17/05/2017; the applicant no.1 gave a notice for divorce on 19/06/2017 and on 26/06/2017 First Information Report (FIR) under Section 498-A of IPC and other sections was filed, in which charge-sheet has already been filed.

3. It is contended that as a counter attack, the domestic violence proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short, “the D.V. Act” hereinafter) have been filed (pg. 45). It is, therefore, submitted that filing of complaint under Section 12 of the D.V. Act was merely a counter attack and therefore, the same is required to be quashed. It is also submitted that there has been no cohabitation between the applicant no.1 and the non-applicant no.2, which is also a ground urged for quashing the complaint.

4. It is a settled position of law that an allegation that a proceeding has been filed as a counter complaint cannot be a ground for exercising power under Section 482 of Cr. P.C., for quashing a complaint. A perusal of the complaint under Section 12 of the D.V. Act (pg.45) indicates that specific allegations have been made against the present applicant nos.1 and 2, which would require trial. The plea regarding non-cohabitation is also one, which would require trial, considering which, I am not inclined to allow the application. The criminal application is therefore dismissed. No costs.