

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

CRIMINAL APPLICATION (APL) NO. 475/2022

1. Vishal S/o Bhaskarrao Thakre,
aged about 38 years, Occ. Pvt. Service,
2. Bhaskarrao Laxmanrao Thakre,
Aged about 66 years, Occ. Retired,
3. Smt. Pushpa Bhaskarrao Thakre,
aged 60 years, Occ. Household,

All R/o. Bhojapur, Bhandara,
Tah. & Dist. Bhandara,

....**APPLICANTS**

VERSUS

1. State of Maharashtra,
through Police Station Officer,
Police Station Saoner,
Tah. Saoner, Dist. Nagpur.
2. Sau. Mrunali Vishal Thakre,
aged 36 years, Occ. Service,
R/o. C/o. Dattatray Naik,
Bajar Chowk, Ram Mandir Road,
Saoner, Tah. Saoner, Dist. Nagpur.

....**NON-APPLICANTS/
RESPONDENTS**

Mr. R. M. Patwardhan, Advocate for applicants.
Mr. H. D. Dubey, Additional Public Prosecutor for non-applicant No.1.
Mr. D.R. Upadhyay, Advocate for non-applicant No. 2.

CORAM : VINAY JOSHI, J.

CLOSED FOR JUDGMENT : 01.07.2022.

DATE OF JUDGMENT : 04.07.2022.

JUDGMENT

Heard.

2. **Admit.** By consent of learned counsel appearing for the parties, this application is taken up for final disposal.

3. Aggrieved by the issuance of summons in Miscellaneous Criminal Application No. 403/2018, the applicants have filed this application under Section 482 of the Code of Criminal Procedure seeking quashing of the entire proceeding filed by non-applicant No.2/wife in terms of Section 12 of the Protection of Women from Domestic Violence Act ('D.V. Act'). The challenge is raised on two counts, that is the parties have not lived in "shared household" and secondly there are no specific allegations about the domestic violence.

4. The non-applicant No.2/wife married with the applicant No.1/husband on 12.04.2014. After marriage, they lived together and blessed with a male child. In the month of November 2016, the couple separated due to differences. Therefore, the non-applicant

No.2/wife alleging instances of domestic violence, has applied to the Magistrate claiming multiple reliefs as available under the provisions of D. V. Act.

5. Learned counsel appearing for the applicants would submit that in absence of specific instances of domestic violence, the Magistrate could not have invoked the provisions of the D. V. Act. It is argued that soon-after the marriage, the couple started to reside separately at Wardhan and then at Bhuwaneshwar in the State of Orissa which were the working places of husband. It is submitted that the non-applicant No.2/wife has not lived with her parents-in-law at any point of time. After delivery of a child, non-applicant No. 2/wife never returned for cohabitation. She has secured job of Teacher and thus, declined to stay at her matrimonial house. More emphasis is laid on the point that the application is bereft of specific instances of domestic violence.

6. Per contra, learned counsel appearing for the non-applicant No. 2/wife resisted application by contending that the application gives a detail account of several instances about her mental as well as physical harassment. Time and again, she has been harassed to meet unlawful demands. She was frequently

humiliated and thus, she was harassed mentally as well as physically. Learned counsel appearing for non-applicant No. 2/wife by placing reliance on the decision of the Supreme Court in case of ***Shyamlal Devda and others Vs. Parimala, AIR 2020 SC 762*** would submit that at this stage, prima facie satisfaction of the Magistrate about the instances of domestic violence are sufficient for issuance of summons.

7. It is the case of non-applicant No.2/lady that she got married with the applicant No.1 on 12.04.2014 and resumed cohabitation at Bhandara which was her matrimonial house. She has delivered a child from the wedlock. She reiterated that since beginning, she has been persistently harassed to meet various demands. Non-applicant No. 2/wife stated that from the very next day of the marriage, she has been humiliated by the applicants. It is her case that her mother-in-law used to quarrel and her husband used to abuse and beat her at the instance of his parents. She has given detail account about instances of demand of various articles namely air conditioner, motorcycle, furniture, cooking gas etc. Non-applicant No. 2/wife further stated that in the month of August 2014, when she was to shift at Wardha, the applicants did not allow to take her household articles. During her stay at Wardha, she was

harassed and neglected by applicant No.1/husband. Non-applicant No.2/wife has specifically stated that after delivering a child, she resumed her matrimonial duties at the house of her husband. The things were repeated as she has been harassed at the instance of applicants.

8. Certainly, it cannot be said that the application is bereft of instances of domestic violence as defined under Section 3 of the D. V. Act. Though specific dates have not been mentioned, however the application gives elaborate account as to how on particular occasion non-applicant No. 2/wife has been harassed physically and mentally. The applicants contended that the non-applicant No. 2/wife never lived at her matrimonial house, however it is a matter of defence. The application itself discloses that soon-after the marriage, she resumed her cohabitation at her matrimonial house and lived with all applicants. The scrutiny at this stage is quite limited to the extent of prima facie satisfaction. It is evident from the application that the parties lived in “shared household”. The non-applicant No.2/wife has stated various instances and the manner in which she has been harassed. Learned counsel for the applicants though places reliance on the decision of the Supreme Court in case of *Deb Narayan Halder Vs. Smt Anushree Halder, 2003*

CRI. L.J. 4470, however, he is unable to satisfy as to how the ratio laid down in the said case would apply to the facts of this case. The entire reading of application reflects commission of domestic violence at the instance of applicants, and therefore, no case of quashing is made out.

9. In view of above, the application is devoid of merits and same stands dismissed.

10. Non-applicant No. 2 – Sau. Mrunali Vishal Thakre is permitted to withdraw the amount which has been deposited in this Court by the applicants.

JUDGE

Gohane

JITENDRA
BHARAT
GOHANE

Digitally signed
by JITENDRA
BHARAT
GOHANE
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