

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

CRIMINAL APPLICATION (APL) NO.787 OF 2021

Jafar Khan s/o Hafiz Khan Pathan and others

Vs.

State of Maharashtra Through the Secretary Home Department Mantralaya,
Mumbai – 32 and others

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

Court's or Judge's orders

Mr. S. G. Malode, Advocate for applicants.

Ms. Mayuri Deshmukh, APP for non-applicant nos.1 and 2/State.

Ms. Rashi Deshpande, Advocate for non-applicant nos.3 & 4.

CORAM : AVINASH G. GHAROTE, J.

DATE : 01/04/2022

Heard Mr. Malode, learned counsel for the applicant, Ms. Deshmukh, learned APP for non-applicant nos.1 and 2 and Ms. Deshpande, Advocate for non-applicant nos.3 and 4.

2. The application challenges the institution of the proceedings under the Domestic Violence Act against all the applicants herein. By an order dated 12.08.2021 this Court has held that there is *prima facie* material as against the applicant no.1 - husband and therefore, the application is restricted to the applicant nos.2 to 13 only and stands dismissed as against the applicant no.1.

3. Mr. Malode, learned counsel for the applicants submits that the allegations as against the

applicant nos.2 to 13 are concerned, the complaint would demonstrate that they are vague and unspecific, more over, the applicant nos.5 to 13 are not resident of the matrimonial house, in which, the respondent no.2 was residing with the other applicants and therefore, submits that considering the nature of allegations as made against these applicants, the proceedings cannot be permitted to go ahead.

4. Ms. Deshpande, learned counsel for the non-applicant nos.3 and 4 opposes the application and submits that in so far as the applicant nos.2 to 4 are concerned, they are residence of the same house. Learned counsel by inviting my attention para 5 of the complaint, points out that there are specific allegations against the applicant no.3 made therein. In so far as, the applicant no.2 is concerned, the contention is that he was demanding that his sons be got employed by the father of the complainant, which allegations are contained in para 6. In so far as the applicant no.4, it is contended that there are allegations made against him in para no.3. She further points out that there are allegation against all the applicants made in the complaint and therefore, the matter needs an enquiry.

5. A perusal of the complaint demonstrates that there are specific allegations as against the applicant no.2 the father-in-law made in para 6 of the complaint in

which, the nature of demand/allegation made against him are specifically stated and so also there are specific allegations against the applicant no.3 the mother-in-law as is indicated in para 5 of the complaint. However, in so far as, the applicant no.4 is concerned, the only allegation against applicant no.4 is that he was using the LCD TV at his games zone, which TV was given to the complainant by her father. Apart from this, there is no specific allegations against applicant no.4. The applicant nos.5 to 12, according to the learned counsel for the applicants, are the maternal aunts of the applicant no.1, and the applicant no.13 is the sister-in-law which is not disputed and the complaint indicates that general and vague allegations are made against them, which are unspecific in nature. That apart, the applicant nos.5 to 12, are residing separately in their own houses, since the beginning. The applicant no.13 is also resident of Pune, considering which, I do not see any case being made out for the continuation of the proceeding as against the applicant nos.4 to 13.

6. The application in so far as the applicant nos.4 to 13 is concerned, is hereby allowed and the Domestic Violence proceedings instituted against them vide DV Case No. 06 of 2021 are hereby quashed and set aside as against the applicant nos.4 to 13. However, in so far as the applicant nos.2 and 3 are concerned, since there are specific allegations against these applicants, I

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do not see any reason to interfere in the proceedings instituted against them.

7. The application in so far as the applicant nos.2 and 3 is concerned, stands dismissed.

8. The application is partly allowed in the above terms.

JUDGE

Sarkate