

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

**CRIMINAL APPLICATION [APL] No. 1234/2021.**

1.Rajnibai Madhukarrao Tarale,  
Aged 72 years, Occupation  
Household,

2.Gajanan Madhukarrao Tarale,  
Aged 53 years, Occupation -  
Agriculturist,

3.Sau.Radhika Gajanan Tarale,  
Aged 47 years, Occupation  
Household.

Nos.1 to 3 resident of Civil Lines,  
Near B & C Office, Daryapur,  
Tq.Daryapur, District Amravati.

4.Sau.Madhuri Rajendra Kadam,  
Aged 49 years, Occupation -  
Household, resident of Shinde Nagar,  
Weekly Market, Yavatmal,  
District Yavatmal.

... **APPLICANTS.**

**VERSUS**

Leena Vijay Tarale,  
Aged 39 years, Occupation -  
Housewife, resident of Pravin Nichal,  
Parvati No.1, Ekvira Villa,  
Flat No.402, Amravati.

... **NON-APPLICANT.**

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Mr. V.B.Bhise, Advocate for Applicants.  
Mr.K. Rao, Advocate h/f. Mr.P.S.Patil, Advocate for the  
Non-applicant.  
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**CORAM : VINAY JOSHI, J.**

**DATE OF RESERVING THE JUDGMENT : 22.06.2022**  
**DATE OF PRONOUNCEMENT : 04.07.2022.**

**JUDGMENT :**

Heard. **Admit.** Considering the controversy involved in the matter and by consent of the learned Counsel for the parties, Criminal Application is taken up for final disposal at the stage of admission.

2. By this application, applicants have prayed to quash the proceedings i.e. application filed by the non-applicant – wife, in terms of Section 12 of the Domestic Violence Act (hereinafter referred to as “**the D.V.Act**” for short). Applicant No.1 is mother-in-law, applicant no.2 is brother-in-law, applicant no.3 is wife of

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applicant no.2 and applicant no.4 is sister-in-law of the non-applicant.

3. It is contended that the provisions of the D.V. Act could not have been invoked against applicants in the facts and circumstances of the case. The very maintainability of the application has been questioned on the ground that the application [filed under DV Act], no where discloses that there was domestic violence or the parties were living in domestic relationship.

4. The learned Counsel for applicants would submit that the non-applicant – lady has made general, vague and omnibus allegations against applicants. Neither specific instances are quoted, nor dates about the alleged harassment are set out in the application. On the other hand the non-applicant has supported the order of issuance of notice by contending that the non-applicant – wife has made out a prima facie case constituting that the parties lived in a shared household and there has been domestic violence.

5. With the assistance of learned counsel appearing for the

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parties, the application filed under Section 12 of the D.V. Act was perused. The husband of the non-applicant – lady who is original non-applicant no.1 in the application under D.V. Act, is not party to this application. In other words the husband has not challenged the maintainability of the proceedings under D.V. Act. The facts are such that the marriage between the couple took place in 21.07.2003. After marriage the non-applicant resumed cohabitation at the house of her husband where his relatives were residing. The non-applicant / lady gave birth to a male child on 27.08.2004. The aggrieved lady has stated that since inception she was subjected to mental and physical harassment. Soon after the birth of the child, applicants did not allow her to remain with the child. On the contrary, three year old child was sent for residence at the house of applicant no.4 – Madhuri [sister-in-law] for educational purpose. Time and again the non-applicant / lady expressed her desire to meet the child, but, she was not allowed.

6. The non-applicant / lady averred that applicants used to abuse and threaten her. She was humiliated by saying that no dowry was paid in the marriage. She has stated various instances of

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harassment occurred in the year 2014, 2015, 2017 and 2020. She stated about her physical, mental and emotional harassment at the hands of applicants. As regards to applicant no.4, Madhuri [sister-in-law], it is stated that she had also visited at her matrimonial house and harassed her. As and when the non-applicant / lady went to the house of Madhuri, she was humiliated and abused. On the premise of such allegations, the non-applicant/lady has filed application under the D.V. Act claiming multiple reliefs.

7. Section 2[g] of the D.V.Act defines the term “Domestic Violence” as having the same meaning as assigned in Section 3 of the D.V.Act. The said provision elaborately defines physical, mental, physiological, sexual and economic abuse faced by the women in domestic relationship. Prima facie, the non-applicant/ lady has made allegations about her mental, physiological and emotional abuse, therefore, at the threshold it cannot be said that the application filed under D.V. Act does not spell out the instances of domestic violence.

8. The case of applicant no.4 Madhuri [sister-in-law] stands

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on different footing. Admittedly since inception she was residing separately at Yavatmal with her husband. Her casual visits at the house of the non-applicant cannot be termed that she was living in shared house. There are no specific allegations against her to constitute domestic violence. It is informed that son of the couple is staying with Madhuri and taking education at Junior College, for which there is no dispute. In absence of any specific instances of domestic violence against Madhuri, it would be an abuse of the process of Court in continuing the proceedings against her.

9. The learned Counsel for applicants by placing reliance on the decision of this Court in case of **Prabhakar Mohite and another .vrs. State of Maharashtra and another – 2018 [6] Mh.L.J. [Cri]. 478**, would submit that in absence of specific allegation, the action under the D.V.Act would not lie merely on the basis of vague and general contentions. There can be no dispute about said proposition, however, on the basis of facts of each case the material is to be examined to find out whether there exists sufficient material to constitute the action initiated under the D.V.Act. However, as

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discussed above, the non-applicant has placed sufficient material on record against the rest to prima facie constitute domestic violence at their hands.

10. In view of above, Criminal Application is partly allowed. Criminal Application No.165/2021 filed by the non-applicant wife stands quashed as against applicant no.4 Madhuri [sister-in-law] / only. The Criminal Application shall continue against the rest.

**JUDGE**