

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

**CRIMINAL APPLICATION (APL) NO. 120 OF 2022**

1. ~~Manzar Shakir Jesani~~ (Dismissed as withdrawn)
2. Shakir Gulamabbas Jesani,  
aged about 54 years, Occupation: Business,
3. Khushboo Shakir Jesani, aged about  
26 years, Occupation: Housewife,
4. Imran Gulamabbas Jesani, aged about  
48 years, Occupation: Business,
5. Ashfiya s/o. Imran Jesani, aged about  
\_\_\_\_\_ years, Occupation: Business,

Applicants 2 to 5 are r/o. Ground Floor,  
Khushabu Manzil, Near Saoji Hospital,  
Tiwari Layout, Chandgaon Road,  
Bramhapuri, Distt. Chandrapur (MS).

6. Iqbal Gulamabbas Jesani, aged about  
60 years, Occupation: Business,
7. Shabbir Gulamabbas Jesani,  
aged about 50 years, Occupation: Business,
8. Hussain Shabbir Jesani,  
aged about 19 years, Occupation: Student,

Applicants 6 to 8 are r/o. Opp. LIC Office,  
Patel Nagar, Bramhapuri,  
Distt. Chandrapur (MS).

.... **APPLICANTS.**

// **VERSUS** //

Nagma Manzar Jesani, aged about  
26 years, Occupation : Not Known,  
C/o. Salim Yusuf Ajani, R/o. Flat  
No.605 & 606, Wing-3, Rai Ashiyana  
Apartment, Moti Bagh, Ansar Nagar,  
Nagpur.

.... **NON-APPLICANT.**

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Shri Abdul Subhan, Advocate for Applicants.  
Ms Rohini Khapekar, Advocate for the respondent.

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**CORAM** : **ANIL S. KILOR, J.**  
**DATED** : **OCTOBER 20, 2022.**

**ORAL JUDGMENT :**

1. Heard.
2. **RULE.** Rule made returnable forthwith.
3. Heard finally by consent of the parties.
4. By this application filed under Section 482 of the Code of Criminal Procedure, the applicants are praying for quashing the

complaint bearing Criminal Misc.Application No.2476 of 2021 filed under Sections 12, 19, 20, 22 and 23 of the Protection of Women from Domestic Violence Act, 2005 pending before learned Judicial Magistrate First Class, Nagpur.

5. The present application was dismissed as withdrawn on 27/04/2022, *qua* the applicant No.1 Manzar Shakir Jesani.

6. The learned counsel for the applicant Nos. 2 to 8 submits that the non-applicant got married with the son of the applicant No.2 on 15/11/2011 and out of the said wedlock they are blessed with a son and a daughter. It is submitted that in the month of July 2021 the non-applicant filed complaint under the provisions of the Domestic Violence Act and also lodged police complaint with Police Station, Brahmapuri against the applicants for the offences punishable under Sections 498-A, 323 and 34 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act. It is submitted that the applicant No.2 is father in law, applicant No.3 is sister-in-law of the non-applicant. The applicant Nos.4, 6 and 7 are the real

brothers of applicant No.2, applicant No.5 is wife of applicant No.4, whereas applicant No.8 is son of applicant No.7.

7. It is submitted that the applicant Nos. 2 to 8 were residing separately and therefore, they do not fall within the definition of shared household and further no allegations fulfill the requisites of domestic relationship. Accordingly, he submits that the applicants have been unnecessarily roped into the frivolous litigation to harass them. Thus, in the above referred backdrop, he prays for quashment of the complaint.

8. In support of his submission, he has placed reliance on the judgment of this Court in the case of *Ganesh Badri Rathod Vs. Nikita Ganesh Rathod*, reported in **2021 ALL MR (Cri) 3036**.

9. On the other hand, the learned counsel for the non-applicant submits that immediately after the marriage of the non-applicant with the applicant No.1, she used to reside with the applicant Nos. 2 to 8, though they are presently residing separately.

She, therefore, submits that the present case fall within the definition of “shared household” and also as there are sufficient allegations to establish the domestic violence she prays for dismissal of the present proceedings.

10. In the above referred backdrop, I have perused the present application and the documents filed along with the same.

11. In the present matter, there is no dispute that the applicant Nos. 2 to 8 are residing separately and their addresses are different than the address of the applicant No.1, who is husband of the non-applicant. There is no material to show that the non-applicant had stayed with the non-applicant Nos. 2 to 8 in a shared household.

12. A co-ordinate Bench of this Court in the case of *Ganesh Rathod* (supra) while dealing with the definition of ‘domestic relationship’ has held thus:

*“(18) In the case of **Satish Chander Ahuja** [2021 ALL SCR(Cri) 329](supra), in the context of Section 2(f) of the D.V.Act, which defines “domestic relationship” and 2(s) thereof, which defines “shared household”, the Hon’ble Supreme Court in the said judgment has held as follows :-*

*“68. The words “lives or at any stage has lived in a domestic relationship” have to be given its normal and purposeful meaning. The living of woman in a household has to refer to a living which has some permanency. Mere fleeting or casual living at different places shall not make a shared household. The intention of the parties and the nature of living including the nature of household have to be looked into to find out as to whether the parties intended to treat the premises as shared household or not. As noted above, 2005 Act was enacted to give a higher right in favour of women. The 2005 Act has been enacted to provide for more effective protection of the rights of the women who are victims of violence of any kind occurring within the family. The Act has to be interpreted in a manner to effectuate the very purpose and object of the Act. Section 2(s) read with Sections 17 and 19 of 2005 Act grants an entitlement in favour of the woman of the right of residence under the shared household irrespective of her having any legal interest in the same or not.”*

*(19) In the case of **Shyamlal Devda** [2020 ALL SCR (Cri) 364] (supra), the Hon’ble Supreme Court was concerned with a similar situation where number of relatives of the husband were made respondents in a*

*complaint filed under the D.V. Act. The Hon'ble Supreme Court held in the said judgment as follows :-*

*“9. In the present case, the respondent has made allegations of domestic violence against fourteen appellants. Appellant No.14 is the husband and appellants No.1 and 2 are the parents-in-law of the respondent. All other appellants are relatives of parents-in-law of the respondent. Appellants No.3, 5, 9, 11 and 12 are the brothers of father-in-law of the respondent. Appellants No.4, 6 and 10 are the wives of appellants No.3, 5 and 9 respectively. Appellants No.7 and 8 are the parents of appellant No.1. Appellants No.1 to 6 and 14 are residents of Chennai. Appellants No.7 to 10 are the residents of State of Rajasthan and appellants No.11 to 13 are the residents of State of Gujarat. Admittedly, the matrimonial house of the respondent and appellant No.1 has been at Chennai. Insofar as appellant No.14-husband of the respondent and appellants No.1 and 2-Parents-in-law, there are averments of alleging domestic violence alleging that they have taken away the jewellery of the respondent gifted to her by her father during marriage and the alleged acts of harassment to the respondent. There are no specific allegations as to how other relatives of appellant No.14 have caused the acts of domestic violence. It is also not known as to how other relatives who are residents of Gujarat and Rajasthan can be held responsible for award of monetary relief to the respondent. The High Court was not right in saying that there was prima facie case*

*against the other appellants No.3 to 13. Since there are no specific allegations against appellants No.3 to 13, the criminal case of domestic violence against them cannot be continued and is liable to be quashed.”*

13. In the teeth of the above referred observations, I revert back to the allegations made in the complaint against the applicant Nos. 2 to 8. The allegations in the complaint as against applicant Nos. 2 to 8 are vague and no specific allegations are made against each of the applicant Nos. 2 to 8.

14. The allegations are to the effect that all the non-applicants have ill-treated and misbehaved with the non-applicant. It is also alleged that because the non-applicant was not ready to bring the amount or to inform her father, the applicant No.1 and his father-applicant No.2 beat her mercilessly and pressurized to hand over 15 to 20 Tolas (150 to 200 grams) gold and silver ornaments.

15. Further allegations are in paragraph No.8 of the complaint, which read thus:

*“8. It is submitted by the petitioner that, after trying to call so many time to the non-applicant and his father when nobody ready to give response than on dated 19.06.2021 petitioner along with her parent and brother went the house of non-applicant at that time all the family members were present at his house at that time all the family members including the four uncle of the non-applicant started quarrel with his wife and other family members in the quarrel non-applicant and his father thrash petitioner and her mother mercilessly and all the uncle and mother of the non-applicant beat feast and blow to the father and brother of the petitioner, at that time mother of the petitioner seriously injured by the hands of father of the non-applicant.”*

16. Thus, it is clear that it is not the case of the non-applicant that after marriage she went to reside with her husband i.e. applicant No.1 in a house wherein applicant Nos. 2 to 8 were also residing. Moreover, on considering the allegations as I have observed that the allegations are vague and it cannot be said that the applicant Nos. 2 to 8 had domestic relationship with the non-applicant or they were living in shared household or separately.

17. Mere casual living cannot make a shared household. Accordingly, I am of the opinion that the complaint under the Domestic Violence Act, 2005 filed by the non-applicant against the applicant Nos. 2 to 8 needs to be quashed and set aside. Accordingly, I pass the following order:

- i) The Criminal Application is partly **allowed** *qua* the applicant Nos. 2 to 8.
- ii) Consequently, the complaint bearing Criminal Miscellaneous Application No.2476 of 2021, pending before Judicial Magistrate First Class, Nagpur, is hereby quashed.

The Criminal Application is **disposed of** accordingly.

( ANIL S. KILOR, J )

*RRaut...*