

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**902 CRIMINAL APPLICATION NO.280 OF 2023**

**ISHAN MANOJKUMAR SHAH AND OTHERS  
VERSUS  
MANISHA W/O. ISHAN SHAH**

Mr.Ruchir S. Wani, Advocate for the applicants.

Mr.A.R. Syed, Advocate for sole respondent.

**CORAM : KISHORE C. SANT, J.  
DATED : 09.03.2023**

**PC :-**

01. Heard both the sides. Taken up for final disposal by the consent of the parties.

02. At the outset, learned Advocate for the applicants seeks leave to withdraw the application to the extent of applicant Nos.1,2 and 3.

03. Leave granted. The application is disposed off as withdrawn to the extent of applicant Nos.1,2 and 3.

04. The application is heard only to the extent of applicant Nos. 4 and 5. The application is for quashing of proceeding under the provisions of the Protection of Women from Domestic Violence Act initiated by the respondent by filing complaint in the Court of learned JMFC, Muktanainagar bearing PWDVA No.18 of 2021. Applicant No.4 is sister-in-law of the respondent. Applicant No.5 is uncle of husband of the respondent. So far as

applicant No.4 is concerned, the allegation against her is that she is unnecessarily keeping on disturbing the husband and wife and is not allowing them to have privacy. Second allegation is that applicant No.4 makes purchases by using credit card of the husband of the respondent and she also gives taunts to the respondent. So far as applicant No.5 is concerned, it is alleged that he is the main person behind all these activities. He keeps on instigating other members of the family.

05. The learned Advocate for the applicants submits that considering the period that the respondent lived with the husband, it is not possible to come to the conclusion that there was domestic violence. As such there are no instances of physical assault, abuses etc. The marriage took place on 08.12.2020. The respondent left the matrimonial house on 12.02.2021. Thus, the respondent hardly stayed for two months at the matrimonial house. Because of the Covid restrictions, the respondent could not be taken to Qatar and therefore complaint is filed. He further submits that even respondent No.4 was working in Mumbai and only because of Covid period she had come to home, since work from home was allowed. She is normally resident of Mumbai. So far as applicant No.5 is concerned, he invited attention to the Visa showing that he immediately after marriage left for Qatar and thus he had no reason to be at Nandurbar and thus he is falsely implicated in the offence. He has produced copy of passport on record showing stamp of 20.12.2020 that he immediately left for Qatar and no allegations sufficient to make out case under the DV Act is made out against him.

06. The learned Advocate for the applicants relied upon judgment in Cr.W.P No.794 of 2019 to submit that even in that case the proceedings against the sisters-in-law is quashed as allegations were omnibus and vague. In that case the wife had stayed at matrimonial house only for three months and it was held that though the sisters-in-law being unmarried sisters, they have shared household. However, that itself cannot be said to be sufficient to attract the provisions of the DV Act. He also produced on record copy of Criminal Application filed by him bearing No.766 of 2023 filed by the respondent wife, wherein she herself had stated that appellant No.5 is residing at Qatar. That application was filed by her challenging the order passed by the Sessions Court granting interim bail to this applicant No.5. Thus, it shows that applicant No.5 is residing at Qatar.

07. The learned Advocate for the respondent vehemently argued that applicant no.4 has committed acts of domestic violence by taking this Court to the definition given under section 3 of the DV Act, essentially explanation 1(iii)(iv). Applicant No.5 though stated to be resident of Qatar, still he is frequently in touch with the family members. He has influence over the members of the inlaws family and therefore he is also responsible and he thus opposes the prayer for quashing of the proceeding.

08. After hearing the parties and perusing the complaint, this Court finds that no specific allegations are made against applicant Nos.4 and 5. The allegations are vague and omnibus. The allegations, even if are taken at their fave value, do not make out case of domestic violence. This Court, therefore,

finds that prosecuting applicant Nos.4 and 5 in the said proceedings would clearly be an abuse of process of law. Hence, following order :-

**ORDER**

- i. The Criminal Application is allowed to the extent of applicant Nos. 4 - Ami d/o. Manojkumar Shah and applicant No.5 – Mahendra s/o. Kanhaiyalal Shah in terms of prayer clause (B).
- ii. So far as applicant Nos.1 to 3 are concerned, the application is already withdrawn to their extent.
- iii. Parties to act upon authenticated copy of the order.

**[KISHORE C. SANT, J.]**