

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.386 OF 2023

1. Krushna Ashok Tribhuvan
Age : 37 years, Occu : Service,
R/o. Annabhau Sathe Nagar,
Near Govt. Hospital, Yeola road, Vaijapur,
Tal. Vaijapur, Dist. Aurangabad
 2. Ashok Tribmbak Tribhuvan
Age : 60 years, Occu : Retired,
R/o. As above.
 3. Shobha Ashok Tribhuvan
Age : 56 years, Occu : Housewife,
R/o. As above.
 4. Surekha Satish Avhad
Age : 35 years, Occu : Housewife,
R/o. 403, Sathe Nagar, Waluj (Bu.),
Tal. Gangapur, Dist. Aurangabad.
 5. Seema Ashok Tribhuvan
Age : 30 years, Occu : Housewife,
R/o. Mohniraj Nagar, Kopargaon,
Dist. Ahmednagar
 6. Murlidhar Raghunath Kamble
Age : 72 years, Occu : Nil,
R/o. Khandala, Tal. Vaijapur,
Dist. Aurangabad.
- ... Petitioners

Versus

1. The State of Maharashtra

2. Varhsa Krushna Tribhuvan
Age : 31 years, Occu : Household,
A/p. R/o. Pardi, Tq. Ardhapur,
Dist. Nanded
3. Pradymna Krushna Tribhuvan
Age : 12 years, Occu : Education
4. Shiv Krushna Tribhuvan
Age : 9 years, Occu : Education .. Respondents

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Advocate for Petitioners : Mr. Rahul Ashok Shinde and
Mr. Kishor R. Doke

APP for Respondent – State : Mr. G.O. Wattamwar

Advocate for Respondent No.2 : Mr. V.R. Dhorde

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CORAM : R. M. JOSHI, J.

DATE : AUGUST 7, 2023

ORAL JUDGMENT :

. This petition is filed under Article 226 and 227 of the Constitution of India and under Section 482 of the Code of Criminal Procedure (for short, 'CrPC') for quashment of application being PWDVA No.13 of 2020 pending before Judicial Magistrate First Class, Ardhapur under the provisions of the Protection of Women from Domestic Violence Act, 2005 (D.V. Act).

2. At the outset, when this Court has shown its disinclination to grant relief to the petitioner no.1, learned counsel for petitioners on instructions seeks leave to withdraw the petition to the extent of

petitioner no.1.

3. Petition stands dismissed as withdrawn qua petitioner no. 1.

4. Learned counsel for petitioners no.2 to 6 submits that the petitioners no.4 to 6 never resided with respondent no.2 in the shared household and hence the proceedings under the D.V. Act are not maintainable against them.

5. As far as petitioners no.2 and 3 are concerned, it is submitted that there is no specific allegation against them in the complaints / application before Judicial Magistrate First Class indicating that any domestic violence was caused by them to respondent no.2. Thus, according to learned counsel, this is a fit case for quashment of the proceedings.

6. Learned appointed counsel for respondent no.2 submits that perusal of the application before the learned Magistrate indicates that there are allegations against husband and his relatives for causing domestic violence. It is also pointed out by referring to paragraph 2 of the application that the petitioners no.2 to 6 used to instigate the

husband of respondent no.2 to cause harassment to her. Thus, according to him, this is not the fit case for quashment of the proceedings.

7. In order to decide this controversy, it would be relevant to take note of provisions which define “aggrieved person” and “domestic relationship”. Section 2 (a) of DV Act defines “aggrieved person” which reads thus :-

2(a) “aggrieved person” means any woman who is, or has been, in domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent.

Section 2(f) states “domestic relationship” to be “a relationship between two persons who live or have, at any point of time, lived together in a shared household when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family”.

8. Perusal of the application made before the learned Magistrate shows that the husband and his relatives used to demand amount of Rs.Five Lakh and on that count, respondent no.2 was harassed

physically and mentally. There is no specific allegation to the effect that the petitioners no.2 to 6 caused the said harassment. On the other hand, there is allegation against them that they used to instigate the husband for causing harassment to the respondent no.2. Thus, the solitary statement even if it is accepted to be true it does not show that any domestic violence was caused by these petitioners to the respondent no.2 and the allegation lacks particulars.

9. It is often noticed that just like in case of offence under Section 498-A of Indian Penal Code, distant relatives used to be roped in, the provisions of D.V. Act are being misused in certain cases. Hence, wherever no case is made out against such persons, this Court cannot refuse to exercise powers under Section 482 of the Cr.P.C.

10. In view of the above discussion, this is a fit case to quash proceedings of the PWDVA No.13 of 2020 qua petitioners no.2 to 6. Hence, following order:

ORDER

(i) Criminal Writ Petition stands allowed qua petitioners no.2 to 6.

(ii) The impugned complaint being PWDVA No.13/2020 pending before the learned Judicial Magistrate First Class, Ardhapur stands quashed and set aside qua petitioners no.2 to 6.

(iii) Fees of appointed counsel is quantified at Rs.6,000/-.

[R. M. JOSHI]
JUDGE

GGP