

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

916 CRIMINAL APPLICATION NO.1181 OF 2023

ADINATH PANDITRAO GAVHANE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Applicants : Mr. Sudarshan J. Salunke
APP for Respondent – State : Mr. S.N. Morampalle

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CORAM : R. M. JOSHI, J.
DATE : AUGUST 11, 2023

PER COURT :

. Heard.

2. In spite of service of notice, respondent no.2 is absent. It indicates that respondent no.2 is not interested to oppose the present application.

3. This application is filed for quashment of proceedings bearing P.W.D.V. No.67 of 2019 under the provisions of the Protection of Women from Domestic Violence Act, 2005 (for short, 'D.V. Act'). The applicants no.1 and 2 are brother-in-law and sisters-in-law of the respondent, whereas applicants no.3 and 4 are their sons.

4. Learned counsel for the applicants submits that though

applicants are the relatives of the respondent, the proceedings under the domestic violence act would not be maintainable against them. It is his further contention that basically allegations are against the husband and hence on the basis of sundry allegations made against these applicants, the proceedings cannot be permitted to be continued.

5. Perusal of the application made before the learned Magistrate clearly shows that there is specific pleading that the applicants were staying in a joint family with the respondent and her husband. Thus, there is pleading to indicate that they were in a domestic relationship with the respondent. As far as the allegations made against applicants no.1 and 2 are concerned, perusal of the application indicates that the said allegations are in respect of the time immediately after the marriage of respondent with her husband. There are specific averments to the extent that they were causing mental and emotional distress to the respondent. It would be a matter of evidence before the Trial Court to hold whether the respondent is able to prove the said allegations. At this stage, suffice it to say that the allegations against applicants no.1 and 2 are

sufficient to allow the continuation of the proceedings.

6. As far as applicants no.3 and 4 are concerned, perusal of the application does not show any allegation against them except that at their instance husband of the respondent used to harass and beat her. This allegation does not constitute any domestic violence actually to have been caused by the applicants no.3 and 4 against the respondent. Thus, the case is made out by the applicants no. 3 and 4 for quashment of the proceedings.

7. In view of above, the following order is passed.

ORDER

- (i) The Criminal Application stands partly allowed.
- (ii) The Criminal Application to the extent of applicants no.1 and 2 stands dismissed.
- (iii) The Criminal Application to the extent of applicants no.3 and 4 stands allowed. The proceedings bearing P.W.D.V. No.67 of 2019 stands quashed against them.

[R. M. JOSHI]
JUDGE

GGP