

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

CRIMINAL APPLICATION NO. 1432 OF 2021

Mahendra Dala Chaudhari and others .. Applicants

Versus

Kavita Mahendra Chaudhari and another .. Respondents

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

Mr. Siddhant P. Sirsat, Advocate h/f Mr. N. L. Chaudhari, Advocate for Respondent Nos. 1 and 2.

CORAM : KISHORE C. SANT, J.

DATED : 17th FEBRUARY, 2023.

P C. :-

. Heard learned advocates for both the parties. Taken up for final disposal by consent of the parties.

2. By this application, the applicants are praying quashing of the proceeding bearing P.W.D.V. No. 16/2021 pending before the learned J.M.F.C., Chalisgaon filed at the instance of respondent No. 1 under the provisions of Protection of Women from Domestic Violence Act, 2005 (for short "Domestic Violence Act"). The applicants have already withdrawn the application to the extent of applicant Nos. 1 and 2 i.e. husband and mother in law of respondent No. 1. It is argued by the learned advocate for the applicants that reading the complaint in its

entirety does not show that the present applicants are sharing common household or they are having any domestic relationship with respondent Nos. 1 and 2. The applicant No. 3 is married sister in law who got married in the year 2000. The applicant No. 4 is her husband. Applicant No. 5 is married sister in law who married in the year 1995. Applicant No. 6 is her husband. Applicant No. 7 is married sister in law who married in the year 2004. Applicant No. 8 is the husband of one of the sister in law of respondent No. 1 namely Anita who is not made accused, however, she is not made party. Applicant No. 9 is also sister in law who married in the year 2012 with applicant No. 10. Applicant No. 11 is niece of respondent No. 1.

3. It is submitted that, all these sisters in law are married much prior to the marriage of respondent No. 1 who married in the year 2014. Before her marriage all the sisters had started residing in their matrimonial houses in different cities except applicant Nos. 5 and 6 though they are shown to be residence of respondent No. 1. However, they are residing away from the house of respondent No. 1. Applicant No. 11 also does not have any concern with respondent No. 1.

4. Learned advocate for the applicants submits that, thus, the basic requirement that the applicants are sharing common household or that they are having domestic relationship with respondent No. 1 itself is

absent and there is no any such specific averment in the complaint. He therefore submits that, a case is made out to dismiss the complaint so far as these applicants are concerned. He thus submits that continuance of proceeding under such circumstances would clearly be an abuse of process of law.

5. As against this, learned advocate for respondents vehemently submits that, this is a complaint filed under Domestic Violence Act. The relationship with respondent No. 1 is not denied by any of the applicants. They all are closely related to the respondents. Though many of the applicants are residing in different cities, however, time to time they use to come and instigate the husband and mother in law of respondent No. 1 and thus, they are also abusing and harassing at the hands of the husband. Further, he submits that, the husband has always used to talk to his sisters on mobile phone and thereafter, use to assault the respondent No. 1.

6. This Court after going through the complaint filed by respondent No. 1 i.e. P.W.D.V. No. 16/2021 pending in the Court of learned J.M.F.C., Chalisgaon, firstly that, basic ingredients of having domestic relationship and sharing of common household is lacking. Secondly, except protection order all the reliefs are against the husband. Thus, this Court finds that, the proceeding as against the applicants would

clearly be an abuse of process of law and therefore, this Court finds that, the application deserves to be allowed in terms of prayer clause (B). Hence, the following order.

7. The criminal application is allowed in terms of prayer clause (B) to the extent of applicant Nos. 3 to 11. The criminal application is disposed off.

(KISHORE C. SANT, J.)

PS.B.