

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

CRIMINAL APPLICATION NO.2138 OF 2023

SARASWATI W/O. JALINDAR DESHMANE AND OTHERS
VERSUS
SNEHA W/O. ASHOK DESHMANE

Mr. A. V. Lavte, Advocate for the applicants

CORAM : R. M. JOSHI, J.

DATE : 12th OCTOBER, 2023

P.C. :-

1. This application is filed under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.') by the in-laws of the original complainant/respondent herein seeking quashment of PWDVA No. 12 of 2023 filed before J.M.F.C., Pathri, District Parbhani under the provisions of Protection of Women From Domestic Violence Act, 2005 (for short 'D.V. Act').

2. It is the case of the respondent that she was married with Ashok Deshmane on 27/02/202. Applicant Nos. 1 and 2 are parents-in-law of respondent whereas applicant Nos.3 to 5 are brother-in-law and sisters-in-law respectively. It is stated in the complaint by respondent that her husband and applicants herein formed a joint family. It is her contention that after her marriage with Ashok on 27/02/2022 she was treated well for about a month but thereafter the applicants and her husband started

causing harassment to her. It is alleged against the husband that he used to taunt her over the looks of her and also used to allege that she did not do the work properly. It is also stated on allegation that sufficient dowry was not paid during the marriage, she was called upon to bring Rs.1 lakhs from her parents. It is alleged that husband used to abuse and beat her.

3. Learned counsel for the applicants submits that though allegations have been made in the complaint by respondent that the husband and other relatives of the husband are living in a joint family, however, the record does not support the same. It is also pointed out that the respondent/original complainant has conveniently avoided to mention the place of matrimonial place. He drew attention of the Court to the first information report lodged by the respondent against the applicants and husband being FIR No. 391/2022 registered with Pathri Police Station, District Parbhani. It is his submission that the present applicants had challenged the said first information report and Division Bench of this Court in Criminal Application No. 3294/2022 has quashed the said report to their extent. By drawing attention of the Court to the documents placed on record, it is submitted that the husband of the respondent was working at Majalgaon and that he along with respondent staying there whereas the applicants herein have different place of residence.

4. None appeared for the respondent in spite of service of notice, which indicates that she is not interested in opposing this application.

5. Prima facie perusal of the complaint lodged before the Magistrate under DV Act does not indicate that exact place of matrimonial home of respondent. It is vaguely stated that her husband was living in a joint family with applicants, however, there is no specific statement to the effect that present applicants shared domestic relationship with her in order to maintain a proceeding under the D.V. Act.

6. In order to decide present application, it would be relevant to take in to consideration relevant provisions of D.V. Act under Section 2(a) defines, "aggrieved person" which reads thus:

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

. Domestic relationship is defined under Section 2(f) to state that:

"domestic relationship" means 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.

7. Prima facie perusal of complaint does not show specific averment regarding applicants and respondent residing together as member of

joint family documents placed on record indicates that all applicants are residing at place other than Majalgaon. Thus, apparently there is nothing on record to indicate that they shared domestic relationship with respondent. As far as present applicants are concerned, they cannot be said to be related with respondent by consanguinity, marriage or adoption. Thus, there is nothing on record to hold that applicants share domestic relationship with respondent. Proceeding under D.V. Act, can be filed against any person who shares domestic relationship with aggrieved person.

8. Apart from this, *prima facie* perusal of the complaint does not show any specific allegations against applicants constituting domestic violence. The Division Bench of this Court while quashing the first information report lodged by the respondent has observed that there is usual tendency of a destitute married woman to rope in as many relatives of the husband as possible in the criminal proceeding. The said observations squarely apply to the present application.

9. In considered view of this Court, allegations made in the proceeding bearing PWDVA No. 12 of 2023 are accepted as it is, there is neither domestic relationship between the applicants and respondent nor case of domestic violence is made out against them. In such

circumstances, allowing continuation of such proceedings against the applicants would amount to abuse of process of Court. Judgment of Hon'ble Apex Court in case of ***State of Harayana and others Vs. Ch. Bhajan Lal and others, 1992 AIR 604*** has application to the present case. Hence, D.V. proceeding PWDVA No. 12 of 2023, pending before learned JMFC, Pathri, District Parbhani stands quashed qua applicants. Hence, application deserves to be allowed in terms of prayer clause 'B'.

(R. M. JOSHI, J.)

ssp