

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

CRIMINAL APPLICATION NO. 1689 OF 2021

Shaikh Wasim Shaikh Supadu
and others

.. Applicants

Versus

Mohasina Jaha Wasim Shaikh

.. Respondent

Mr. Yogesh H. Jadhav, Advocate h/f Mr. Girish A. Nagori, Advocate for
the Applicants.

Mr. N. E. Deshmukh, Advocate for Respondent.

CORAM : KISHORE C. SANT, J.

DATED : 03rd JANUARY, 2023.

P. C. :-

. At the outset, learned advocate for the applicants prays for leave
to withdraw the application to the extent of applicant Nos. 1 and 2.
Leave is granted.

2. Heard the application finally at the stage of admission by consent
of the parties.

3. The present application is filed by the husband and his relatives
for quashing of the proceeding filed under the Protection of Women
from Domestic Violence Act (for short "Domestic Violence Act")
pending before the learned J.M.F.C., Jalgaon bearing P.W.D.V.A.
No. 121/2021.

4. It is the submission of the applicants that there is no specific role attributed to accused Nos. 3 to 6 who are applicant Nos. 3 to 6. The allegations are vague. The applicant Nos. 3 and 4 are distant relatives and are not the members of the family of applicant No. 1 and respondent. They all are residing at Jalgaon whereas, husband-applicant No. 1 and respondent are staying at Guna, Madhya Pradesh and they are unnecessarily dragged in the petition. The applicant Nos. 5 and 6 are not relatives of the husband or wife. Thus, they are not covered under the definition of domestic relationship.

5. Learned advocate for the respondent/wife submits that there are allegations made against all the accused persons. He points out that there is a specific prayer under Section 18 seeking protection order against all the applicants which shows that they are the persons at whose instance she is apprehending a danger. Though applicant Nos. 5 and 6 are not related and applicant Nos. 3 and 4 are distantly related, however, as a matter of fact, they all are staying together and therefore, the proceeding is filed against them. He submits that there is no substance in the present application and the same deserves to be dismissed. He further pointed out that the maintenance order is passed only against the husband and thus, it is clearly seen that the Court has passed the orders by applying its mind.

6. After hearing the parties the main questions that come for consideration are (i) whether the applicant Nos. 5 and 6 can be said to be persons covered under definition of domestic relationship (ii) whether there are allegations against accused Nos. 3 and 5 sufficient enough to make out a case under the Domestic Violence Act. There is no question as regards applicant Nos. 1 and 2 as they happen to be husband and mother in law of the wife/original complainant. The applicant Nos. 5 and 6 cannot be said to be persons falling under the category of domestic relationship. So far as applicant Nos. 3 and 4 are concerned, they are distantly related and they are staying at Jalgaon and they are not concerned with day to day family life of the husband and wife.

7. Considering the above facts, this Court finds that the proceeding under the Domestic Violence Act against applicant Nos. 3 to 6 would certainly be an abuse of process of law and for this reason it is necessary to quash and set aside the proceeding of P.W.D.VA. No. 121/2021 pending before the Court of learned J.M.F.C., Jalgaon. Hence, the following order to their extent.

8. The criminal application is allowed to the extent of applicant Nos. 3 to 6. The proceeding of P.W.D.VA. No. 121/2021 pending before

the Court of learned J.M.F.C., Jalgaon to the extent of applicant Nos. 3 to 6 is quashed.

9. The criminal application is thus disposed off.

10. The proceeding before the learned Trial Court is pending since the year 2021. It would be desirable to dispose of the same as early as possible and preferably within a period of six (06) months from today.

(KISHORE C. SANT, J.)

RS.B.