

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

26 CRIMINAL APPLICATION NO.2655 OF 2022

**PRASHANT ASHOKRAO WADGAWE
VERSUS
DEEPALI PRASHANT WADGAWE @ DEEPALI D/O RAMESH
JAWALE**

Prashant Wadgave, party-in-person present
Mr. Sachin S. Bhise, Advocate for the respondent

CORAM : KISHORE C. SANT, J.

DATE : 17th MARCH, 2023

P. C.

1. Heard the party-in-person and learned advocate for the respondent for quite sometime.

2. This is an application seeking quashment of proceeding bearing PWDVA No. 56/2020 filed by the respondent-wife pending in the court of JMFC, Latur. Said proceeding is filed under the Domestic Violence Act seeking reliefs under Sections 12, 18, 19, 20 and 22 of the Domestic Violence Act.

3. The applicant-husband has come to this court on the ground that no case is made out attracting the provision of the Domestic Violence Act. He submits that all the averments made in the criminal misc. application are incorrect and are totally false. In the petition he has given correct facts and none of the facts is denied specifically by the respondent-wife. Wife has filed proceeding only after the husband filed his first complaint against wife. In addition to oral submission the applicant has also filed written argument giving in detail as to which of the statements in the criminal misc. application are false. He submits that even the date as to when wife left the house is incorrect. He submits that thus, the wife is not entitled to any of the reliefs into the proceeding under the Domestic Violence Act.

4. Learned advocate for the respondent submits that in this case it is admitted position that husband and wife are not staying together. He himself has left his house without making any proper provision for the residence of wife. The wife in fact tried to settle the dispute and she also had been to the office of

the husband-applicant. However, in spite of that no settlement could take place. He further pointed out from the reply that the learned Family Court, Latur by judgment and order dated 01-09-2022 has already allowed the application under Section 9 filed by the wife. In spite of that the husband is not ready to cohabit.

5. The applicant personally address the court and submits that section 9 petition was disposed off without offering sufficient opportunity to him and for that he was required to approach this court. The respondent has already produced the order passed in the writ petition No. 8879/2022 wherein this court has passed an order on 21-09-2022. However by that time the original proceeding had already been decided.

6. Though there are various pleadings and so many submissions are made, this court is concerned only with the application under Section 12 whether it makes out the case attracting the provision of the Domestic Violence Act and if not whether same can be quashed.

7. This court has gone through the petition pending before the JMFC, Latur. This court finds that sufficient averments are made by the wife to maintain the proceeding under the Domestic Violence Act. Though the applicant has vehemently submitted that the allegations in the criminal misc. application are false and are not correct still this court cannot go into the genuineness and correctness of the application. Reading the application it is seen that the case is made out to maintain the application before the trial court. No case is made out for quashing of the proceeding. The application therefore, stands dismissed.

8. It is reported that already there is an order passed by the learned District Judge in an application under Section 408 to decide the said proceeding within two months and therefore, directions are not necessary in that regard.

[KISHORE C. SANT, J.]