

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

925 CRIMINAL WRIT PETITION NO.167 OF 2023

Dr. Shivajirao Marotrao Panzade
Age : 64 years, Occu : Government Service (Pensioner),
Resident of : Government Ayurvedic College,
Tuljapur road, Osmanabad, Tal. & Dist. Osmanabad. .. Petitioner

Versus

1. Usha Shivajirao Panzade
Age : 51 years, Occu : Nil,
Resident of - Parbhani, Near Feroz
Talkies, Khandoba Bazar, Tal. &
Dist. Parbhani.
2. Vinaya Shivajirao Panzade
Age : 19 years, Occu : Student,
R/o. As above. .. Respondents

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Advocate for Petitioner : Ms. Asfia Nuzhat Ansari
Advocate for Respondents No.1 & 2 : Mr. V.M. Maney

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**CORAM : R. M. JOSHI, J.
DATE : SEPTEMBER 07, 2023**

PER COURT :

. The petitioner / husband is taking exception to the maintainability of the PWDV No.139 of 2014 filed by the respondent / wife on the ground that there is no relationship between them at least since the year 2010. The challenge to the said application is essentially on the ground that it is filed beyond period of limitation.

2. The issue of limitation has been decided by the Hon'ble Apex Court in the case of Kamatchi vs. Laxmi Narayanan, AIR 2022 SC 2932 wherein it is held that 'the question of application of limitation as prescribed under the CrPC does not attract to the present case'. It is further held that 'the application under the Domestic Violence Act (for short, 'D.V. Act') is essential, in the nature of civil dispute'. Under Section 31 of the D.V. Act non-compliance of the order, if any, would amount to an offence which will attract provisions of the Cr.P.C. Thus, in view of the settled law by the Hon'ble Apex Court there is no substance in the contention raised by petitioner that the proceeding is barred by limitation or belatedly filed.

3. The next contention is that the respondent / wife has not stayed with the petitioner / husband since the year 2010. In this regard, reference is made to the contention of the wife in the application filed before the learned Magistrate wherein it is stated that since the year 2010 she is not residing with the petitioner – husband. In order to support the submissions that the application under the D.V. Act is not maintainable as the respondent – wife is not sharing the domestic relationship at present, reliance is placed upon

the judgment of the Hon'ble Delhi High Court in the case of Vijay Verma vs. State (National Capital Territory of Delhi), LAWS (DLH)-2010-8-199.

4. In order to decide as to whether there is domestic relationship between the parties, the definition as provided by the D.V. Act under Section 2 (f) is absolutely clear. "Domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household. Thus, if the interpretation is given that for the purpose of filing of the proceeding under the D.V. Act they must live together 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. The interpretation given to the said definition clearly indicates that the proceedings lies against any person who is in domestic relationship meaning thereby even has lived at any point of time together in a shared household. There is no dispute about the fact that the petitioner is husband of respondent and they shared household at one point of time. This Court does not agree with the view taken by the Delhi High Court to the extent that only if the person lived together at the time of preferring application it is only he

can be said to be in domestic relationship. Hence, there is no substance in the petition and the same is dismissed.

[R. M. JOSHI]
JUDGE

GGP