

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

38 CRIMINAL APPLICATION NO.2990 OF 2022

ANJALI W/O. RATNADEEP KADAM PATIL AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Mr.A.A. Nimbalkar, Advocate for the applicants.

Mr.PN. Kutti, APP for the respondent/State.

Mr.Y.K. Bobade, Advocate for respondent No.2.

CORAM : KISHORE C. SANT, J.
DATED : 20.02.2023

PC :-

01. Heard. This application is taken up for final disposal at admission stage, by the consent of the parties.

02. The applicants have come to this Court by filing application under section 482 of the Cr.P.C. for quashing of the proceedings bearing P.W.D.A. Application No. 377 of 2022, pending in the Court of learned JMFC, Aurangabad. The applicants are original respondent Nos.4 and 5 in the said proceedings, who are related as married sister-in-law and her husband of respondent No.2.

03. Respondent No.2 has filed proceedings under the Protection of

Women From Domestic Violence Act on 16.06.2022, making several allegations against other non-applicants. So far as allegation against present applicants is concerned, there is no specific allegation. In para 7 of the application filed in the Trial Court, the allegation against present applicant No.1 is that she used to say that respondent No.2 has brought bad-luck to the home and also used to quarrel. She used to harass on the count of family property. So far as allegation against applicant No.2 is concerned, at his instance respondent No.2 was taken to a Doctor of his acquaintance, where the abortion of respondent No.2 was carried out.

04. The learned Advocate for the applicants has invited attention of this Court to the fact that the applicants are married on 04.02.2009 at Tuljapur, whereas respondent No.2 married on 10.06.2019. Thus, there is gap of 10 years between the two marriages. Since the marriage, applicant No.1 is residing with her husband at Tuljapur and there is no reason for them to come to Aurangabad except on few occasions. He further submits that brother of applicant No.1 filed proceedings for divorce on 03.07.2020 in the Court of learned CJSD, Majalgaon bearing HMP No.33 of 2020, in which even interim application was filed by respondent No.2. He further invited attention to the

copies of certificate showing that respondent No.2 is suffering from schizophrenia and it is for that reason the abortion was required to be conducted as per medical advice. So far as domestic relationship and sharing of common household is concerned, he submits that it is clear from the record that both the applicants are residing in different towns, away from the house of respondent No.2. He, thus, submits that on facts, there is no case made out against these applicants. He submits that there has to be domestic relationship or shared household with the person who filed complaint. In this case, both these things are lacking. Therefore, he submits that continuing proceedings against the applicants would be an abuse of process of law.

05. The learned Advocate for the respondent submits that there are specific allegations against the applicants. He further submitted that as per clause (b) of Section 18 aiding or abetting in the commission of acts falling under domestic violence are also covered and therefore since there is allegation that these applicants are instigating husband of respondent No.2 is sufficient to attract the provisions of D.V. Act against present applicants. He submits that, therefore, relief under section 18 of the protection or prohibition order is only claimed against respondents, whereas the relief under sections

19 and 20 are claimed only from husband, who is respondent No.1 in the original proceedings. He, thus, submits that respondent No.2 has rightly approached the Court. No interference is required at the hands of this Court.

06. In rejoinder, the learned Advocate for the applicants submits by inviting attention to the discharge card of Oriion Citycare Super Specialty Hospital that the abortion was required because of schizophrenic disorder. He further submits that in-fact at the instance of applicant No.2, respondent No.2 was taken to the hospital, where she was advised to abort the pregnancy.

07. The learned Advocate for the applicants further placed on record judgment of Nagpur Bench of this Court in the case of **Sanket s/o. Ravindra Dhonge & Ors. Vs. State of Maharashtra & Ors., Criminal Application (APL) No.166 of 2019**, wherein the Court had considered definitions of “respondent”, “domestic relationship” as well as “shared household”. It was held that there was no domestic relationship and shared household between the parties to that case. In this case also he submits that there is no domestic relationship and shared household.

08. Looking to the facts of this case, it is clear that address of applicant Nos.1 and 2 is given of Tuljapur, which is not disputed by the respondents. In-fact, respondent No.2 on her own in the application before the JMFC has given address of present applicants as Tuljapur. From the averments also what appears is that when these applicants used to come to her home, at that time they used to quarrel with her. Thus, it is clear that there is no domestic relationship and they are also not sharing household. So far as statement as regards clause (b) of section 18 is concerned, this Court finds that there is no specific act of aiding or abetting husband of respondent No.2. So far as domestic violence is concerned, in para 7 of the application in the lower Court shows that applicant No.1 used to have dispute over property and that she used to say that respondent No.2 has brought bad-luck to the house and used to occasionally assault. That allegation also appears to be vague. So far as applicant No.2 is concerned, the allegation is that respondent No.2 was taken to a Doctor of acquaintance of applicant No.2, where abortion was advised. This allegation cannot be said to be allegation constituting aiding or abetting domestic violence. This Court, therefore, holds that no case is made out to prosecute applicant Nos. 1 and 2 in the proceedings under the D.V. Act. Hence, following order :-

ORDER

- (i) Criminal Application is allowed in terms of prayer clause (B).

[KISHORE C. SANT, J.]