

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

**BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 3249 OF 2022

PRADIP PURUSHOTTAM NAGMOTI AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. Harshal Prakash Randhir

APP for Respondent No.1/State : Smt. D. S. Jape

Advocate for Respondent No.2 : Mr. R. M. Gaikwad (appointed)

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**CORAM : KISHORE C. SANT, J.**

**DATE : 12<sup>th</sup> APRIL 2023.**

**Per Court :**

Heard the parties.

1. This application is by husband, two sisters-in-law and their respective husbands of respondent no.2. The applicants have approached this Court for quashing of the proceeding bearing PWDVA No.05/2022 under the Domestic Violence Act, instituted by respondent no.2/wife, which is pending in the Court of learned Judicial Magistrate First Class, Parola, District Jalgaon, wherein she had prayed for various reliefs.

2. At the outset, learned Advocate for the applicants, on instructions seeks leave to withdraw the application to the extent of applicant no.1. Leave is granted as prayed for.

. It is the case of the applicants that the proceeding itself is instituted without any cause of action. There are no specific allegations against any of the applicants. Applicant Nos. 2 to 5 are admittedly residing at Dhule, whereas respondent no.2 and applicant no.1 are residing at Mumbai after the marriage. Applicant no.2 and 3 had got married in the year 1994, applicant no.4 and 5 had got married in the year 1999, whereas respondent no.2 and applicant no.1 are married on 12.03.2021. Immediately within eight days, lockdown started due to Corona Virus and there was no occasion for applicants to even visit respondent no.2. It is further argued that even taking allegation as it is, no specific allegations are made against the applicants. The averments in the complaint show that the allegation is only that all the applicants harassed respondent no.2. Learned Advocate for the applicants therefore prays for quashing of the proceeding i.e. PWDVA No.05/2022.

3. The learned Advocate for respondent no.2 vehemently opposes the application. He submits that from reading of the complaint, it is clear that there are allegations made against all the applicants. There was demand of Rs.20 Lakh by in-laws. Since the amount was not paid, applicants were harassing her and therefore no case is made out to quash the proceeding. He further submits that the learned Magistrate has already applied its mind while issuing notice to the applicants.

4. The learned APP submits that after lodging of the complaint, the report of officer was called and it is only after receiving report, Court can come to proper conclusion.

5. From the application and its annexures, it is seen that respondent no.2 had even filed complaint under Section 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code. Vide order dated 29.06.2022, this Court was pleased to quash the proceeding to the extent of applicant nos. 2 to 5, as no case was made out against them. In the present complaint also, almost similar allegations are made. The fact that applicant nos. 2 to 5 are residing at different places, is not denied by the wife/respondent no.2. The only submission is that it is

applicant nos. 2 to 5, at whose instigation applicant no.1 has assaulted respondent no.2/wife.

6. Considering the submissions and the material, this Court finds that all the facts are admitted, it is clear that there is no domestic relationship between applicant nos. 2 to 5 and respondent no.2 and they are not having shared household and the allegations against them are also vague. Therefore this Court finds that no case is made out against applicant nos. 2 to 5. In view of the same, following order is passed.

### **ORDER**

- (i) The Criminal Application is allowed.
- (ii) The proceeding bearing PWDVA No.5/2022 pending before the learned JMFC, Parola, District Jalgaon is quashed and set aside to the extent of applicant nos. 2 to 5.
- (iii) Mr. Gaikwad, learned Advocate for Respondent No.2 has appeared through Legal-aid. He is entitled to fees as per Rules.
- (iv) With this, the application stands disposed off.

[ KISHORE C. SANT, J.]

*Najeeb.*