

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3496 OF 2022

NITESH JAGANNATH DHAVARE AND OTHERS

VERSUS

JYOTI @ MOHINI W/O. NITESH DHAVARE

...

Advocate for Applicants : Mr. Dhaware Rajkumar B.

Advocate for Respondent : Mr. M.B. Sandanshiv

...

CORAM : KISHORE C. SANT, J.

DATE : 27th MARCH 2023.

Per Court :

Heard the parties.

1. This is an application seeking quashment of the proceeding filed by respondent under the Domestic Violence Act in the Court of learned Judicial Magistrate First Court, Ambajogai, Dist. Beed. The learned Advocate for the applicants submits that no specific allegation is seen against the applicants. The allegations are vague. No case of any incident is made out falling under the D.V. Act. It is further case that the applicant no.4, 5, 6 and 8 are residing at a different place than that of the respondent. Thus they are not sharing the household and they

are also not the persons against whom the prayers are made. Applicant no.4, 6 and 7 are the brothers of the husband; whereas applicant no.5 is wife of applicant no.4 and respondent applicant no.8 is a married sister. He further submits that continuance of the proceeding therefore would be an abuse of process of law.

2. The learned Advocate for the respondent vehemently opposes the application. He points out from paragraph no.3 of the complaint that there is allegation against applicant nos. 1 to 3. Applicant no.2 and 3 are the father-in-law and mother-in-law of respondent, who are staying in the same house and therefore the allegation needs to be considered. He submits that a case is made out against at-least against applicant nos. 1 to 3.

3. Considering the complaint, this Court finds that there are some allegations against the applicant nos. 1 to 3. So far as the applicant nos. 4 to 8, only allegation is that because of their instigation, the husband used to beat the respondent. Further allegation is that there was a demand of bribe at the time of marriage and on that count, they

used to taunt her. The allegation is also made that the applicants used to say that the respondent is of dark complexion and still the husband had married her.

4. Considering all the averments, it appears that certainly a case is made out against the applicant nos. 1 to 3 as they are sharing the house, it would not be safe at this stage to discard the allegations against them. So far as the applicant nos. 4 to 8 are concerned, except applicant no.7, they are residing at the difference places. Though applicant no.7 is residing in the same house, however no specific role is shown so far as this applicant is concerned. This Court is therefore inclined to allow the application partly. Hence the following order.

ORDER

- (i) The Criminal Application is partly allowed.
- (ii) The proceeding of Cri. M.A. No.28/2022 against applicant no.4 -Kanifa; applicant no.5- Rupali; applicant no.6- Amol; applicant no.7- Santosh and applicant no.8- Swati, pending in the Court of learned J.M.F.C., Ambajogai, Dist. Beed is hereby quashed.

- (iii) The application stands allowed to the extend of applicant nos. 4 to 8.
- (iv) The application to the extent of applicant nos. 1 to 3 stands dismissed.

[KISHORE C. SANT, J.]

Najeeb.