



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1470 OF 2023

1. Bharat Chudaman Patil
 2. Kalpana Chudaman Patil
 3. Chameli Dnyaneshwar Patil
- Petitioners

Versus

Chetna Bharat Patil

Respondent

Mr. D. D. Pande, Advocate for the petitioners.

CORAM : R. M. JOSHI, J.

DATE : 11th DECEMBER, 2023.

PER COURT :

1. Learned counsel for petitioners No. 1 and 2, on instructions, makes a statement that he does not wish to press petition as against petitioners No. 1 and 2 at this stage.

2. In view of this, without going to the merits of the case, petition stands dismissed qua petitioners No. 1 and 2 as withdrawn.

3. As far as petitioner No. 3 is concerned, she is sister of petitioner No. 1 and sister-in-law of respondent. It is the contention

of learned counsel for petitioners that from the clause title of PWDVA No. 41/2022 it is clear that petitioner No. 3 is resident of Dalvel, Tq. Parola, Dist. Jalgaon and she has never shared domestic relationship with respondent.

4. None for the respondent. In spite of service of notice, respondent has chosen not to appear before the Court. This shows that she has no inclination to oppose the petition.

5. Perusal of application before the Magistrate shows that respondent was having her matrimonial home at Girad, Tq. Bhadgaon, Dist. Jalgaon whereas place of residence of petitioner No. 3/respondent No. 3 in the application is shown to be Dalvel, Tq. Parola, Dist. Jalgaon. From perusal of the application, it is not seen that she shared domestic relationship with the respondent.

6. In order to decide the controversy, it would be relevant to take note of provisions which define “aggrieved person” and “domestic relationship”. Section 2(a) of Protection of Women from Domestic Violence Act defines “aggrieved person” which reads thus :-

2(a) “aggrieved person” means any woman who is, or has been, in domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent.

Section 2(f) states “domestic relationship” to be “a relationship between two persons who live or have, at any point of time, lived together in a shared household 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.”

According to these definitions, domestic relationship between aggrieved person and respondent is *sine qua non* to maintain an proceeding under DV Act. In order to constitute relationship between two persons as domestic relationship, they must live or at any point of time lived together in a shared household when they are related by consanguinity, marriage or through a relationship in the nature of marriage, adoption or are family members living together as joint family.

7. From prima facie perusal of application filed before Magistrate, does not show the relationship of respondent with

petitioner No. 3 even as a member of joint family. Perusal of title clause of application before the Magistrate shows residential address of Petitioner No. 3/respondent No. 3 therein as Dalvel, Tq. Parola, Dist. Jalgaon. Thus, for want of specific pleadings regarding domestic relationship between respondent and petitioner No. 3, application against petitioner No. 3 does not survive as she does not come within the definition of domestic relationship with the respondent.

8. In the result, this is a fit case to quash proceedings under DV Act qua petitioner No. 3. hence, the following order :-

ORDER

- (i) Petition stands dismissed qua petitioners No. 1 and 2 as withdrawn.
- (ii) Petition stands allowed in terms of prayer clause 'B' qua petitioner No. 3.
- (iii) The impugned application PWDVA No. 41/2022 pending before learned Judicial Magistrate First Class, Parola, stands quashed and set aside qua petitioner No. 3.

(R. M. JOSHI)
Judge