

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

CRIMINAL APPLICATION NO. 3844 OF 2022

Preeti Govind Thorve
and another

.. Applicants

Versus

Archana Pramod Misal

.. Respondent

Mr. Kishor D. Khade, Advocate for the Applicants.
Mr. Shrimant Munde, Advocate for Respondent.

CORAM : KISHORE C. SANT, J.

DATED : 20th APRIL, 2023.

P C. :-

. Heard learned advocates for the parties for some time. Taken up for final disposal by consent of the parties.

2. The applicants before this Court are the sister in law of respondent, applicant No. 2 is husband of applicant No. 1. The respondent lodged proceeding under the Protection of Women from Domestic Violence Act (hereinafter referred to as “Domestic Violence Act”) in the Court of learned C.J.M., Aurangabad bearing P.W.D.VA. No. 506/2020. By way of this application, the applicants are praying for quashing of the proceedings filed by the respondent. In the application filed under Section 12 of the Domestic Violence Act, the

respondent has alleged that, she was harassed at the hands of her husband and other in laws. In the application it is further stated that, the present applicant No. 1 (respondent No. 3 in the application before the learned Trial Court) was staying in the family of the respondent and her husband till her marriage. It is alleged that, during that period all the in laws that is husband, mother in law and applicant No. 1 harassed the respondent and therefore she was constrained to file the proceeding on various grounds under Sections 17, 18, 19, 20, 21, 22, 23 of the Domestic Violence Act.

3. It is the submission of the learned advocate for the applicants that, there are no specific allegations against the present applicants. The present applicants are residing at a different place and they are not the members of family of respondent. Though for initial period the applicant No. 1 stayed with her brother and she was not married, however, it is denied that, she has ever committed any act of domestic violence. Learned advocate for the applicants further submits that, looking to the prayers in the application, none of the prayer is against the present applicants and for this reason also continuance of the proceeding against the applicants would be an abuse of process of law. He relies upon the judgment in the case of Dimple Jatin Khanna @ Dimple Rajesh Khanna @ Mrs. Dimple Khanna and another Vs. Anita

Advani and another reported in 2016 (1) Mh.L.J. (Cri.) 210. He further relies upon the judgment of the Hon'ble Apex Court in the case of Shyamlal Devda and others Vs. Parimala reported in 2020 (3) Mh.L.J. (Cri.) (S.C.) 33. Learned advocate also produced on record the copy of the order passed by the Hon'ble Apex Court in Criminal Appeal No. 43 of 2013 in the case of Ashish Dixit & Ors. Vs. State of U.P. & Anr.

4. Learned advocate for respondent vehemently opposes the application. He submits that, there are specific allegations. He fairly concedes that, against applicant No. 2 there are no allegations as he never shared common household. However, prior to marriage of applicant No. 1 when she was staying in the family of respondent certain acts are alleged against her. He submits that, a complaint under Section 498-A of the Indian Penal Code was filed by the respondent against applicant No. 1 wherein applicant No. 1 is also shown one of the accused person. N.C. was required to be registered against the present applicant No. 1. Learned advocate for respondent thus prays for rejection of application.

5. This Court has considered the application under the Domestic Violence Act. It is found that the allegations against the present applicant No. 1 are general in nature. The allegations state that all respondent Nos. 1 to 3 in the application have committed act of

violence, however, no specific instances are given in the said application. As against applicant No. 2, there are no allegations at all. Considering the prayers, it is seen that, none of the prayer can be said to be a prayer against the present applicants. All the reliefs are thus prayed against husband and mother in law of the respondent.

6. Considering the allegations in the application and considering the judgments cited, this Court finds that, to continue with the proceeding under the Domestic Violence Act would be certainly an abuse of process of law. There are no specific allegations against these applicants and also for the reason that no relief is prayed against these applicants. In view of the same, the following order is passed.

7. The present criminal application stands dismissed.

(KISHORE C. SANT, J.)

PS.B.