

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

**933 CRIMINAL APPLICATION NO.2779 OF 2022
WITH APPLN/4295/2022 IN APPLN/2779/2022**

**ABDUL NABI KADLOOR AND OTHERS
VERSUS
SHAIKH WAFA MARIYAM S/O. MOHAMMAD ARIF KADLOOR**

Mr. S. N. Lele Yelwatkar, Advocate for the applicants
Mr. P. V. Bedre, Advocate for the respondent

CORAM : KISHORE C. SANT, J.

DATE : 13th JANUARY, 2023

P. C.

1. Heard both the sides. The matter is taken up for final disposal with the consent of the parties.

2. This application is filed by all the in-laws of respondent praying for quashing of the proceeding filed at the instance of respondent in the court of learned JMFC, Udgir under the provision of Protection of Women From Domestic Violence Act, 2005. The respondent had filed Cri. Misc. Application No. 13/2022 alleging the domestic violence at the hands of husband and all the in-laws. On going through the application, it appears that there is no specific instance of domestic violence mentioned in the application. Only the allegations seen is that the husband who is not before this court

was already married and this fact was suppressed by the husband and all the in-laws. It is further alleged that it was impressed upon mind of the wife that marriage of the husband is first marriage. From the application it further appears that the husband was residing at Kalburgi whereas mother-in-law and father-in-law i.e. Non-applicant Nos. 2 and 3 are residing at Kalburgi. From this application, in para No. 5 she had shown Non-applicant No.2 is residing at Yadgir. The brother-in-law and his wife i.e. non-applicant Nos. 4 and 5 are residing at Hyderabad. Thus, there is no averments in the complaint showing that all in-laws are residing in the same house or under the same roof. So far as non-applicant Nos. 6, 7, 8 and 9 are concerned they are married sisters-in-law and they are residing at their matrimonial place.

3. It is therefore, case of the applicants that none of the applicants are residing or have resided with the respondent. They are residing at different places. It is submitted that there is no specific act alleged or pleaded in the entire application. This cannot be said to be an act falling under the domestic violence act.

4. It is the submission that under such circumstances to continue the proceeding to go on would amount to abuse of process of law. The learned advocate for the respondent submits that all the applicants are from influentially political family.

Respondent could not stay with them for long time because of their act. She is afraid and even is not ready to join the matrimonial house because of the conduct of the applicants. It is for this reason that she immediately left the matrimonial house and came back to her parental house. He pointed out in para No. 11, there are specific allegations against the husband. Though, the husband behaved in this fashion, the applicants have never supported her and have always supported the husband, in his submission this amounts to domestic violence and prays for rejection of the application.

5. Considering the application and the submission it is found that there are no specific allegations made against any of the applicants. The allegations that the applicants suppressed the fact of earlier marriage of the husband cannot be said to be an act of domestic violence. It is clear that parties are residing at different places and therefore even if the husband has performed the second marriage, it cannot be said to be an act of domestic violence as it is permissible in view of personal law applicable to parties.

6. In view of the discussion this court finds that a case is made out for quashing of the proceeding of the Criminal Misc. Application No.13/2022 to the extent of these applicants. Hence, the following order:

(4)

criapln2779.22

ORDER

- i] The criminal application stands allowed.
- ii] Criminal Misc. Application No.13/2022 pending before the learned JMFC, Udgir is quashed and set aside to the extent of these applicants.
- iii] In view of disposal of criminal application, pending criminal applications stand disposed off.

[KISHORE C. SANT, J.]

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