

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

27 CRIMINAL APPLICATION NO.3948 OF 2019

**BABASAHEB GANPATRAO DAHALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANR**

Mr. Prakash Randhir Harshal, Advocate for the applicants
Mr. P. B. Jadhav, Advocate for the respondent No.2
Mr. P. N. Kutti, APP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 21st FEBRUARY, 2023

P. C.

1. Heard the learned advocate for the parties.
2. Matter is taken up for final disposal by consent of the parties.
3. This petition is by petitioner No.2-mother-in-law, petitioner No.3-brother-in-law. Petitioner No.4 is wife of petitioner No. 3, petitioner No.5 is brother-in-law, petitioner No.6 is the uncle of husband of respondent No.2, respondent No. 7 is wife of petitioner No.6, petitioner Nos. 8 and 9 are cousin of husband of respondent No. 2. The petitioners have approached this court for quashing of proceeding of Criminal Misc. Application No.74/2019 filed by respondent No.2

presently pending before the learned JMFC, Ambejogai. She has filed proceeding under the provision of Domestic Violence Act. It is the allegation against the present petitioners that they had instigated the husband of respondent No.2 to physically harass. It is further alleged that because of instigation of these persons, the husband of respondent No.2 is driven out of the house. Learned advocate for the petitioners vehemently submits that there are no specific allegations against any of the petitioners before this court. He submits that the husband was also made party to this petition. However, he has already withdrawn the application to the extent of husband. He further submits that thus taking into consideration the continuous of the proceeding before both the courts would be clearly amount to abuse of process of law.

4. Learned advocate for the respondents vehemently argued that there are specific allegations that these petitioners are instigating the husband whereby the husband has committed acts of the domestic violence against respondent No.2. Thus, they are persons who are responsible for the domestic violence act therefore, respondent No.2 was constrained to file proceeding and prays for rejection of the petition.

5. On going through the entire complaint in paragraph No. 3 only allegations seems to be that these petitioners used to instigate the husband of respondent No.2 and because of such

instigation the husband used to harass her physically. In paragraph No. 6 again there is averment that it is because of instigation at the hands of petitioners the husband is harassing the wife. Thus, at the most looking to the allegations it is seen that these persons are instigating the husband. However, there are no specific acts stated or alleged against the the petitioners.

6. This court finds that in view of this continuation of proceeding of Criminal Misc. Application No.74/2019 before the court of learned JMFC, Ambejogai and before the High Court it is the abuse of process of law. A case is clearly made out to allow the criminal application. The criminal application, is thus, allowed in terms of prayer clause-B.

[KISHORE C. SANT, J.]

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