

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.3436 OF 2021

Manjula Pravin Kacha
and others

.....Petitioners

Versus

State of Maharashtra
and another

.... Respondents

Mr. Anand Mishra, Advocate for the Petitioners.

Mr. A.R. Patil, APP for the Respondent-State.

Ms. Ameeta Kuttikrishnan, Advocate (appointed) for
Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 21st JULY, 2023

P.C. :

1. Leave to amend to delete the name of the
Petitioner No.1 from the cause title is granted as she has
passed away as stated by learned counsel for the Petitioners.

2. This Petition is filed under Article 227 of the
Constitution of India and under Section 482 of Cr.P.C. for
quashing of the Domestic Violence Complaint No.130/2020

pending before the Metropolitan Magistrate, 65th Court, Andheri, Mumbai. The Petitioners are the original Respondent Nos.2, 3 & 4. Learned counsel for the Petitioners informed the Court that the Petitioner No.1 herein i.e. the original Respondent No.2 has passed away and, therefore, the Petition survives as far as the Petitioner Nos.2 & 3 only.

3. Learned counsel for the Petitioners submitted that there are hardly any allegations against the Petitioners. The Petitioner No.3 is the sister of the Respondent No.2's husband and the Petitioner No.2 is the husband of the Petitioner No.3. He submitted that they were residing at Surat from the beginning and only after the period of COVID they have shifted back to Mumbai. He submitted that the complaint itself shows that the Respondent No.2 was residing with her husband and mother-in-law i.e. earlier Petitioner No.1 in this Petition. All the allegations are quite vague and therefore the provisions of the Protection of Women from Domestic Violence Act, 2005 (for short, 'said

Act') are not attracted against them.

4. Learned counsel submitted that the original Respondent No.5 Mitul Ravji Shah had approached this Court vide Criminal Writ Petition No.3241/2021 and by order dated 30.8.2022 passed by this court (Coram: Prakash D. Naik, J.) the proceedings against him were quashed. Learned counsel submitted that though he was not relative of the husband, the fact that the proceedings were dropped against him can also be taken into consideration.

5. Learned counsel for the Respondent No.2 submitted that there are some allegations against the Petitioners No.2 & 3 and, therefore, the proceedings need not be quashed.

6. I have considered these submissions. The complaint filed by the Respondent No.2 herein before the Magistrate mentions that it was filed under Section 12, 18, 19, 20 and 22 of the said Act. Paragraph-3 of the complaint itself mentions that the Respondent No.2 herein started

residing with the husband and mother-in-law in Mumbai. After that they are absolutely vague allegations against both the present Petitioners.

7. There is a common statement in the complaint that all the original Respondents used to use filthy language and used to threaten the Respondent No.2 herein. These allegations are vague because no specific details are mentioned. It is not even mentioned that both the Petitioners i.e.the Petitioner Nos. 2 & 3 used to come to matrimonial house of the Respondent No.2 for committing such acts.

8. The second allegation against these Petitioners is that they along with original Petitioner No.1 provided medicine to the Respondent No.2's husband so that she could not become pregnant. It is alleged that the Respondent No.2's husband gave her those medicines and, therefore, she could not become pregnant. Again this allegation is absolutely vague and the main allegations are against her husband alone.

9. The third allegation is that these Petitioners and the Petitioner No.1 did not allow the Respondent No.2 to execute the marriage certificate. This again is a vague allegation and it is not possible to even imagine as to how the Petitioners could stop her from getting the marriage certificate.

10. Beyond this, there are no allegations against the Petitioner Nos.2 & 3. The prayer for maintenance is with reference to the husband of the Respondent No.2.

11. Considering these vague allegations, continuation of the proceedings against the present Petitioner Nos.2 & 3 would be an abuse of the process of law. Therefore, in line with the order dated 30.8.2022 passed in Criminal Writ Petition No.3241/2021, the proceedings against the Petitioner Nos.2 & 3 are also required to be quashed.

12. Hence, the following order is passed :

:: O R D E R ::

- i. The Petition is allowed.
- ii. The proceedings pending before the learned Metropolitan Magistrate, 65th Court, Andheri, Mumbai vide Domestic Violence Complaint No.130/2020 is quashed and set aside qua the present Petitioner Nos.2 & 3 only.
- iii. The Petition is disposed of accordingly.

PRADIPKUMAR
PRAKASHRAO
DESHMANE

Digitally signed
by
PRADIPKUMAR
PRAKASHRAO
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(SARANG V. KOTWAL, J.)