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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.79 OF 2024

Durga Vilas Deshpande and Another

APPLICANTS

VERSUS

Harshada Raghvendra Dixit and Another

RESPONDENTS

.....
Mr. Avinash D. Aghav, Advocate for the applicants
Mr. Mohit R, Nalpani, Advocate for respondents
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 28th MARCH, 2024

ORDER :

1. By this application, filed under section 482 of the Criminal Procedure Code, applicants seeks quashing of proceedings of Criminal M. A. No. 389 of 2023 filed by respondents against them and others, under the provisions of the Domestic Violence Act, 2005. Applicants are sister in law of respondent No.1 and her husband.

2. Respondent No.1 has filed Criminal M. A. No. 389 of 2023 against her husband and his relatives, including applicants, alleging that, her marriage with non applicant No.1 was performed on 10th May, 2022 and since first date of marriage, all the non applicants started harassing her. After marriage, she went to reside with her husband at Pune, where she was treated

well for initial few days and thereafter all the non applicants No.1 to 8 started harassing her. Non applicants No.4 to 8 used to always come to her matrimonial house and used to abuse her in filthy language and used to harass her. They used to tell wrong things and instigate non applicant Nos. 1 to 3, who used to ill-treat her. All the non applications started demanding Rs.10 lakhs from the parents of respondent No.1.

3. Heard learned advocate for applicants and learned advocate for respondents. Perused the memo of application, annexures and proceedings of Criminal M. A. No. 389 of 2023.

4. It is the case of applicants that, their marriage was performed 16 years before the marriage of respondent No.1. Respondent No.1, along with her husband, was staying at Pune. They do not fall within the definition of “domestic relationship” and only with a view to harass and pressurize the in laws, they are falsely implicated in the present matter. Therefore, proceeding against them is liable to be quashed and set aside.

5. Learned advocate for respondents strenuously opposed the application contending that there are specific allegations of ill-treatment against applicants.

6. Indisputably, applicants’ marriage is performed 16 years

before marriage of respondent No.1. Admittedly, the first respondent was residing at Pune along with her husband and applicants are residing at Warapgaon, Taluka - Ambajogai, District - Beed, which is at a distance of more than 250 km. No specific overtact is attributed to applicants and vague and general allegations are levelled against them that all the non applications mentioned in the Criminal M. A. used to harass and ill-treat respondent No.1.

7. There is also merit in the contention of applications that they do not fall within the definition of "domestic relationship" and, therefore, learned Magistrate ought not to have issued process against them. Non application of mind on the part of learned Magistrate, in issuing process against applicants, is writ large on the face of record. It appears that there is substance in the argument of applicants that with a view to pressurize the in laws, applicants are falsely implicated in the present crime, due to grudge and *mala fides*. Allegations made in the complaint, against applicants, appear to be absurd and improbable and proceeding initiated against applicants is clearcut abuse of process of law. The application, therefore, deserves to be allowed.

8. In the result following order -

ORDER

- A. Application is allowed.
- B. Proceedings of Criminal M.A. No. 389 of 2023 pending on the file of Judicial Magistrate, First Class, Vaijapur is quashed, to the extent of present applicants i.e. non applicants No. 7 and 8 in the said proceedings.

[NITIN B. SURYAWANSHI]
JUDGE