



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

903 CRIMINAL WRIT PETITION NO. 862 OF 2024

**RANGNATH NIVRUTTI KOLHE AND ANOTHER
VERSUS
SOW. CHAYA W/O RANGNATH KOLHE**

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Advocate for the Petitioner : Mr. Salunke Mayur Vasant

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**CORAM : Y.G. KHOBRAGADE, J.
DATE : 09.10.2024**

PC.:-

1. Heard advocate Mr. M.V. Salunke the learned counsel appearing for the Petitioners at length.
2. By the present petition under Article 227 read with Section 482 of the Cr.P.C., the Petitioners assailed the judgment and order dated 16.04.2024 passed by the learned Additional Sessions Judge, Ambajogai in Criminal Appeal No.65/2017 thereby affirmed the judgment and order dated 11.08.2017 passed by the learned J.M.F.C., Ambajogai in Misc. Application No.317/2012, whereby the learned Magistrate granted an application under Section 12 of the Protection of Women from Domestic Violence Act 2005 (in short the DV Act) and directed the present Petitioner/Original Respondent to pay Rs.2,000/- towards maintenance to the Respondent No.1-Wife with

compensation to the tune of Rs10,000/-.

3. On face of record it appears that both the Courts below concurrently held that marriage of present Petitioner No.1 was solemnized with the Respondent No.1 on 06.05.1995 as per customs and rituals and after the marriage the Respondent No.1 cohabited with the present Petitioner No.1 as his wife. It is not in dispute that the marriage of the present Respondent was solemnized with the Petitioner No.1 during the subsistence of his first marriage because the Petitioner No.1 was not blessed with a child from his first wife i.e. Petitioner no. 2. On face of record, it further appears that the second marriage was solemnized with consent of first wife with a hope that the Petitioner No.1 will be blessed with a child out of matrimonial relations with the present Respondent. The Petitioner-Husband did not dispute about the relationship between him and the Respondent, so also, co-habitation of the Respondent with him for a long period.

4. Needless to say that the present Respondent had filed a civil proceeding i.e. RCS No.195/2010 under the Hindu Marriage Act as well as under Section 18 of the Hindu Adoptions and Maintenance Act and had prayed for maintenance, however, the said suit came to be dismissed vide judgment and order dated 28.02.2012. Subsequently, the present Respondent also invoked jurisdiction under Section 125 of the Cr.P.C. and prayed for

maintenance, however, said application was also dismissed on the ground that the second wife whose marriage was solemnized during the subsistence of first marriage is not entitled for the maintenance. Thereafter, the present Respondent filed Misc. Application No.317/2012 under Section 12 of the D.V. Act. After conclusion of the trial, on 11.08.2017, the learned J.M.F.C. passed the judgment and order holding that the present Petitioners raised domestic violence as against the Respondent and directed the present Petitioner No.1 to pay Rs.2,000/- per month towards the maintenance of the Respondent with compensation to the tune of Rs.10,000/-.

5. On perusal of the impugned judgment and order dated 16.04.2024, it appears that the learned Appellate Court re-appreciated entire evidence and recorded findings that the present Petitioner No.1 was doubting on the character of Respondent No.1 and had suspicion about illicit relations of the Respondent with one male person. The Respondent specifically pleaded in her application u/s 12 of the D.V. Act that the Petitioner had suspicion about her illicit relations with one Bhagwan Deshmukh and as such the present Petitioner had given suggestion during cross-examination of the Respondent, which she denied. Therefore, the fact of suspicion of the Petitioner about illicit relationship proved and which certainly falls within the ambit of domestic violence against the Respondent.

6. Section 3 (b), (c), (d) (iii) of the DV Act provides as under:

"3. Definition of domestic violence.—For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it—

(b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or

(c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or

(d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

(iii) “verbal and emotional abuse” includes—

(a) insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and

(b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested;"

7. Therefore, considering the definition provided under Section 3 even doubting the illicit relations of the wife with some other person, which certainly harm or causes injury to the aggrieved person and falls within the ambit of ‘domestic violence’. In the case in hand, the Respondent No.1 came with a specific plea about raising domestic violence at the hands of the Petitioner No.1 on doubting her character and her illicit relations with

Bhagwan Deshmukh without any proof. Therefore, making such type of allegations against the aggrieved person is nothing but amounts to domestic violence within the meaning of Section 3 of the DV Act.

8. On perusal of record, it appears that both the Courts below concurrently held that by doubting the chastity of the Respondent-wife and suspecting that the wife is having illicit relations with some unknown person, the Petitioner No.1 raised the domestic violence. Both the Courts below concurrently recorded finding about raising domestic violence at the hands of the Petitioner no.1 which does not appear to be perverse or illegal. Therefore, I do not find that the Petitioner has made out any substantial grounds to interfere with the findings recorded by the Courts below. Accordingly, the petition is dismissed.

[Y.G. KHOBRADE, J.]