



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

949 CRIMINAL APPLICATION NO. 2043 OF 2023

1. Gangadhar s/o Bhimrao Valakate.
2. Shakuntala w/o Gangadhar Valakate.
3. Mahesh s/o Gangadhar Valakate. ... Applicants

Versus

1. The State of Maharashtra.
2. Vijayshri w/o Vyankatesh Valakate. ... Respondents

...
Mr. Hanumant P. Jadhav, Advocate for Applicant.
Mr. Mukesh K. Goyanka, APP for Respondent/State.

CORAM : **SANJAY A. DESHMUKH, J.**

DATE : 04th January, 2024.

P.C.:

1 This is an application, under Section 482 of the Code of Criminal Procedure, for quashing the proceedings filed under the provisions of the Protection of Women from Domestic Violence Act bearing PWDV Application No.169 of 2021, pending in the Court of learned Chief Judicial Magistrate, Latur.

2 Respondent No.2 though duly served, remained absent.

3 The learned counsel for the applicants submitted that the FIR and the consequential charge-sheet in R.C.C. No.343 of 2022,

pending in the Court of learned Judicial Magistrate First Class, Latur, for the offences punishable under Sections 498-A, 323 and 504 read with 34 of the Indian Penal Code, against these applicants (except the husband) is quashed by this Court vide order dated 3rd February, 2023 passed in Criminal Application No.2387 of 2022. He pointed out the said order. He further pointed out that the husband of respondent No.2 is having separate house at Pune. For that, he has filed copies of Aadhaar card, Tax Receipt of Pimpri Chinchod Municipal Corporation, Pune and his passport as well as electricity bill. The learned counsel for applicant submitted that respondent No.2 was residing with her husband at Pune and she was not residing with these applicants. Therefore, the prayers of the wife cannot be allowed against these applicants. He lastly prayed for allowing this criminal application.

4 Perused the application filed under Section 12 of the Protection of Women from Domestic Violence Act. There are allegations that her ornaments etc. were taken away by the applicants. But no such incident is pointed out as to when those were taken. Without pointing out any specific incident, omnibus allegations are made about the alleged cruelty and ill-treatment on the part of these applicants. Therefore, prayer clause (A) in the application of respondent No.2 cannot be allowed against these applicants. As far as agricultural land is concerned, respondent No. 2 is not having legal

right over it. Therefore, the prayer regarding that agricultural land that they shall not transfer the said property, also cannot be allowed. The other prayers are about the payment of maintenance and payment of rent amount for her residential house as well as compensation, are sustainable only against the husband of respondent No.2 and not against these applicants.

5 Considering all these facts and circumstances of the case, if the applicants are compelled to face the proceedings under the Protection of Women from Domestic Violence Act, it would be certainly abuse of the process of Court. Therefore, the proceedings bearing PWDV Application No.169 of 2021 deserves to be quashed against these applicants only. This application is therefore, allowed in terms of prayer clause (A). No costs.

[SANJAY A. DESHMUKH, J.]

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