



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2752 OF 2023

1. Monica Santosh Jadhav
Age : 68 years, Occ : Pensioner, **(Mother in law of Resp.)**
R/o Swapnil Mahale, B-304,
Saptagiri, CHSL, Sanghavi Hills Complex,
village Kavesar, Behind D-Mart,
near Kasarwadavali Police Station,
G.B. Road, Thane West 400 615.
2. Sheetal Shimon Angarkar **(Sister in law of Resp.)**
Age: 40 years, Occ: Service,
R/o Flat No.C-106, Aravali Hill CHSL,
Sanghavi Hills Complex,
village Kavesar, Behind D-Mart,
Next to Kasarwadavali Police Station,
G.B. Road, Thane West 400 615.
3. Shimon Yeshudas Angarkar **(Brother in law of Resp.)**
Age : 42 years, Occ : Business,
R/o Flat No.C-106, Aravali Hill CHSL,
Sanghavi Hills complex,
village Kavesar, Behind D-Mart,
Next to Kasarwadavali Police Station,
G.B. Road, Thane West 400 615.
4. Komal Parag Padale **(Sister in law of Resp.)**
Age: 39 years, Occ : Service,
R/o Flat No.32, Floor No.5,
Gulab Vishwa Apartment, Saket Nagar,
Pethe Nagar, Aurangabad.
5. Parag Tanaji Padale **(Brother in law of Resp.)**
Age : 42 years, Occ : Business,
R/o Flat No.32, Floor No.5,
Gulab Vishwa Apartment, Saket Nagar,
Pethe Nagar, Aurangabad.

..APPLICANTS

-VERSUS-

1. The State of Maharashtra
2. Ketki Vikrant Jahdavi **(Daughter in law of Applicant no.1)**
Age : 36 years, Occ : Service,
R/o Flat No.30, Building No.C,

Gulab Vishwa Apartment, Saket Nagar,
Pethe Nagar, Aurangabad.

3. Myrah Vikrant Jadhav
Age : 5 years, Occ : Education.
R/o --- As above ----
Under guardianship of Resp. No.2

..RESPONDENTS

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Advocate for Applicants : Mr.S.N. Pagare
APP for the respondent/State : Mr.Mukesh K. Goyanka
Advocate for respondent nos.2 and 3 : Mr.M.S. Randhave
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CORAM : SANJAY A. DESHMUKH, J.

RESERVED ON : 10th May, 2024.

PRONOUNCED ON : 11th June, 2024.

ORDER :-

1. This is an application under section 482 of the Criminal Procedure Code, 1973 (for short, "Cr.P.C."), for quashing and setting aside the criminal proceedings bearing Criminal M.A. No.735 of 2022, which is pending before the learned 20th Judicial Magistrate, First Class, Aurangabad under section 12 of the Protection From Women Domestic Violence Act, 2005 (For short, "D.V. Act").

2. The complaint is filed by the daughter-in-law of respondent no.2 and her daughter i.e. respondent no.3.

3. It is admitted fact that applicant no.1 is mother-in-law and applicant nos.2 and 4 are sister-in-laws of the applicant. Applicant

nos.3 and 5 are the husbands of applicant nos.2 and 4.

4. The learned advocate for the applicants submitted and pointed out that the applicants were not residing with respondent no.2, however, they are falsely implicated in the case. There is no any substance in the allegations made against these applicants in the application. Applicant nos.2 to 5 never resided with respondent no.2 but she was staying with her deceased husband independently. Respondent no.2 is taking disadvantage of D.V. Act, which amounts to abuse of the process of Court. There is no any specific incident inspite of alleged domestic violence on the part of the applicants.

5. The learned advocate for the applicants further pointed out the application filed by applicant no.1 under section 25 of the Guardian and Wards Act before the Family Court, Aurangabad, in which it is alleged that respondent no.2 had illicit relationship with one Rohan Vaidya and when her husband was alive that relationship was continued, and therefore, she prayed for custody of the child by filing the application dated 25.02.2023. The learned advocate for the applicants lastly prayed to allow the application by quashing and setting aside the said proceedings.

6. The learned advocate for respondent nos.2 and 3

strongly opposed the application and submitted that respondent no.2 was not treated properly. Husband of respondent no.2 died on 14.03.2021. She resided with the applicants at Malkhare Awas, Aurangabad. Thereafter they started to reside at Thane with applicant nos.1 and 3 and stayed there for long period. In the year 2018, husband of respondent no.2 purchased Flat no.30 at Saket Nagar, Pethe Nagar, Aurangabad and she was residing there. They were asking her to pay the rent. Once applicant no.1, who is Nurse gave additional two tablets to respondent no.3. On that count, quarrel took place between them. That time they insisted her to perform second marriage and give the custody of respondent no.3 Mayara to them. Applicant no.2 slapped her and threatened to eliminate her. They alleged that because of respondent no.2, their brother died. Applicant nos.4 and 5 were insisting to respondent no.2 to give respondent no.3 in adoption to them. Therefore, also she was slapped. They beaten her. They also told to respondent no.2 that character of respondent no.2 is not good. She was not in love with her husband, and therefore, he died. She questioned as to why they misled her daughter respondent no.2, therefore, she was harassed. They doubted her character and questioned her as to why she is talking with some unknown male persons. Applicant no.2 slapped her for 2-3 times and threatened that if she is not leaving house, she has to face the consequences of it. On 13.08.2022, she came to know that her

flat at Malkhare Awas was given on rent by applicant no.2. The learned advocate therefore pointed out that the respondents have prayed for maintenance of Rs.10,000/- as well as prohibitory order that the applicants shall not cause obstructions to her possession of house and also not to transfer the flat no.30 of Saket Nagar, Pethe Nagar, Aurangabad. It is also pointed out that respondents have prayed for getting rent of Flat No.7 situated in plot nos.146 and 147 of Malkhare Awas. It is lastly prayed to pay compensation of Rs.5,00,000/-.

7. Perused the application filed by respondent nos.2 and 3. As far as prayer for maintenance is concerned, admittedly the applicants are not legally liable to pay the maintenance to the respondents. The prayer nos.5 to 8 in the said application are against applicant nos.1 to 3 and prayer no.9 is against all the applicants for claiming compensation of Rs.5,00,000/-.

8. There are certain allegations against all the applicants, which can be perceived from the application itself. However, the applicants cannot be held liable to pay maintenance. Therefore, except the prayer in prayer clause (2) of the application under the Domestic Violence Act regarding directions to pay maintenance, the entire proceedings cannot be quashed. It is a matter of evidence. The

application deserves to be partly allowed in respect of prayer clause (2) of the application filed under the Domestic Violence Act. Hence the following order :-

ORDER

- (i) The application is partly allowed.
- (ii) The proceedings to the extent of prayer clause (2) of the application bearing Criminal M.A. No.735 of 2022 filed under the Domestic Violence Act is quashed and set aside.

(SANJAY A. DESHMUKH, J.)

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