



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1762 OF 2022
WITH
CRIMINAL APPLICATION NO.3861 OF 2023
IN WP/1762/2022

1. Vishwanath Narayanrao Bansode
 2. Kanta Vishwanath Bansode
- ... PETITIONERS

VERSUS

1. The State of Maharashtra
through Superintendent of Police,
Aurangabad.
 2. The Police Inspector,
Police Station
N-7, CIDCO, Aurangabad
 3. Anjali w/o Satish Bansode
- ... RESPONDENTS

...

Advocate for the Petitioners : Mr. Hemant Surve

APP for Respondents: Mr. Amar V. Lavte

Advocate for Respondent No.3 : Mr. V.S. Bhale

...

CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.

DATE : 02.05.2024

PER COURT:

Heard both the sides finally.

2. The petitioners who are the senior citizens are seeking to enforce their right under the Maintenance and Welfare of Parents and Senior Citizens, Act 2007 and the Rules framed thereunder.
3. Apparently, the petitioners' son is the husband of respondent No.3. There is a matrimonial dispute. Petitioners allege that she has been

criminally trespassing into their house and is committing crime, still neither the crime was registered nor any procedure as contemplated in Rule 20 of the Maharashtra Maintenance and Welfare of Parents and Senior Citizens Rules, 2010 (The Rules) is being followed.

4. By the order passed on 20.01.2023 this Court had directed concerned Police to reach to the Petitioners, record their statements by going to their home. The affidavit-in-reply filed by the concerned Police Sub-Inspector of CIDCO Police Station *inter alia* mentions about having approached the petitioners and having registered Crime No.46/2023 for the offences punishable under Section 452, 143, 354, 504, 506 as per the directions dated 20.01.2023.

5. The affidavit-in-reply further states about steps taken pursuant to Rule 20 of the Rules. However, there is a first rejoinder dated 14.02.2023 specifically mentioning that the police visited the petitioners in the midnight of 30.01.2023 and 05.02.2023 and thereafter couple of individuals had visited their place on 12.02.2023 in the afternoon. There is another additional rejoinder, wherein, it has been alleged that some incident had taken place on 27.08.2023 at about 8.00 pm, when the respondent No.3 along with her relatives allegedly forcibly entered into the petitioners' house and assaulted them. It also mentions about a complaint having been lodged with the Commissioner of Police and CIDCO Police Station. A copy is annexed (Exhibit-E). It has also been specifically mentioned about petitioner No.2 having sustained dislocation

of the thumb. They have also expressly mentioned that relatives of the respondent No.3 left the house after that incident but she continued to remain present in the house. It is also alleged that she threatened the petitioners of committing suicide and had even removed the gas pipeline and the cylinder so as to leak the gas. It is mentioned that no crime pursuant to their report has been registered in respect of that incident. Learned APP informs that a non-cognizable report has been recorded in respect of that incident.

6. True it is that the dispute is arising out of a matrimonial discord between respondent No.3 and her husband. One need not overemphasise the fact that the law takes care of rights of such destitute woman in the form of provisions of Protection of Women from Domestic Violence Act, 2005 (The DV Act) which recognizes and makes provisions for enforcement of several rights of such women including a right to occupy a shared household.

7. Admittedly, as is being informed by the learned advocate for respondent No.3, she has not resorted to the provisions of the DV Act by filing any proceeding under Section 12 till date. The situation thus becomes similar to one in the matter of **S. Vanitha Vs. Deputy Commissioner, Bengaluru Urban District and Ors.;**(2021) 15 SCC 730. It is a matter of right of the petitioners who are the Senior Citizens covered by the provisions of the Maintenance of Senior Citizens Act and a destitute woman like respondent No.3 who for whatever reason has not

sought to enforce her rights by filling appropriate proceeding. It is in the peculiar circumstances, follow the course laid down in **S. Vanitha** (supra).

8. Already one FIR and one non-cognizable report have been registered, however, simultaneously even the police machinery will have to ensure that they follow the mandate of Rule 20 of the Rules which reads thus :

“20. Action plan for the protection of life and property of senior citizens. -

(1) The District Superintendent of Police, and in the case of cities having a Police Commissioner, such Police Commissioner shall take all necessary steps, subject to such guidelines as the State Government may issue from time to time, for the protection of life and property of senior citizens.

(2) Without prejudice to the generality of sub-rule (1).-

(i) each police station shall maintain an up-to-date list of senior citizens living within its jurisdiction, especially those who are living by themselves (i.e. without there being any member in their household who is not a senior citizen);

(ii) a representative of the police station together, as far as possible, with a social worker or volunteer, shall visit such senior citizens at regular intervals of atleast once a month, and shall, in addition, visit them as quickly as possible on receipt of a request of assistance from them;

(iii) complaints or problems of senior citizens shall be promptly attended to, by the local Police;

(iv) one or more Volunteers' Committee(s) shall be formed for each Police station which shall ensure regular contact between the senior citizens, especially those living by themselves, on the one hand, and the police and the district administration on the other;

(v) the District Superintendent of Police or, as the case may be, the Police Commissioner shall cause to be publicised widely in the media and through the Police Stations, at regular intervals,

the steps being taken for the protection of life and property of senior citizens;

(vi) each Police Station shall maintain a separate register containing all important particulars relating to offences committed against senior citizens, in such form as the State Government may, by order, specify;

(vii) the register referred to in clause (vi), shall be kept available for public inspection, and every officer inspecting a Police Station shall invariably review the status as reflected in the register;

(viii) the Police Station shall send a monthly report of such crimes to the District Superintendent of Police by the 10th of every month;

(ix) list of Do's and Don'ts to be followed by senior citizens in the interest of their safety will be widely publicized;

(x) antecedents of domestic servants and others working for senior citizens shall be promptly verified, on the request of such citizens;

(xi) community policing for the security of senior citizens will be undertaken in conjunction with citizens living in the neighbourhood, Residents' Welfare Associations, Youth Volunteers, Non-Government Organizations, etc.;

(xii) the District Superintendent of Police shall submit to the Director General of Police and to the District Magistrate, a monthly report by the 20th of every month, about the status of crime against senior citizens during the previous month, including progress of investigation and prosecution of registered offences, and preventive steps taken during the month;

(xiii) the District Magistrate shall cause the report to be placed before the District-level Co-ordination-cum-Monitoring Committee constituted under rule 22;

(xiv) the Director General of Police shall cause the reports submitted under clause (xii) to be compiled, once a quarter, and shall submit them to the State Government every quarter as well as every year for, inter alia, being placed before the State Council of Senior Citizens constituted under rule 21;

(xv) every District Superintendent of Police and Commissioner

of Police in his jurisdiction shall start a toll free help line for senior citizens.”

9. We allow the writ petition and direct the respondent Nos.1 and 2 to strictly follow Rule 20 of the Rules.

10. It would always be open for the respondent No.3 to seek enforcement of her rights under the DV Act. We make it clear that this order shall not be an impediment for the Magistrate to decide if any such proceeding is preferred by her on its own merits. The Magistrate shall not feel persuaded by the observations made herein above.

11. Pending application is disposed of.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

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