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906-crw-1962-24

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

906 CRIMINAL WRIT PETITION NO. 1962 OF 2024

AZEEM ANSARI AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for the Petitioners : Mr. Shaikh Moinuddin Nasiruddin
(through V.C.)

APP for Respondent / State : Mr. N. D. Batule

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CORAM : Y. G. KHOBRAGADE, J.

DATE : 10.12.2024

PER COURT :

1. Heard Mr. Shaikh Moinuddin Nasiruddin, learned counsel appearing for the Petitioners at length.

2. By the present Petition, the Petitioners have put forth prayer clauses 'a', 'b', and 'c' as under :

“(a) This Hon’ble Court be pleased to quash and set aside Domestic Violence Proceedings u/s 12 bearing Case No.49/24 filed before the Hon’ble JMFC, at Aurangabad;

(b) Pending hearing and final disposal of the present Petition for quashing this Hon’ble Court be pleased to stay the Domestic Violence Proceedings u/s 12 bearing Case No.49/24 filed before the Hon’ble JMFC, at Aurangabad;

(c) Ad-interim relief in terms of prayer clause (b) & (c) kindly be granted.”

3. The present Respondent No.2/ori. Applicant and the aggrieved person within the meaning of Section 2(a) of the Protection of Women from Domestic Violence Act, 2005 (in short 'D. V. Act). The Petitioner No.1 is the father-in-law, Petitioner No. 2 is mother-in-law, Petitioner No. 3 is brother-in-law, Petitioner No. 4 is sister-in-law, Petitioner No. 5 is husband of sister-in-law i.e. Petitioner No. 4 and Petitioner No. 6 is sister-in-law of the ori. applicant/Respondent No.2. (For the sake of brevity and convenience, parties to the present petition hereinafter will be referred in their original capacity as Applicant and Non-applicants as per PWDV Case No. 49 of 2024).

4. The present Respondent No.2/Aggrieved person has filed a complaint PWDV Case No. 49 of 2024 under Section 12 of the D.V. Act. Under Section 12 of the D.V. Act alleging that, as per the customs and rites prevailing in the Mohammedan community, her marriage solemnized with the Non-applicant No.1 at Hyderabad on 10.12.2021. At the time of marriage, her parents provided huge dowry including 35 Tolas' Gold Ornaments and Rs.15,00,000/-(Rupees Fifteen Lakhs only). Immediately, after the Walima ceremony/Reception, on 12.12.2022, the Non-Applicant No.2 Mrs. Tasneem Farzana, (Mother-in-law) and two sister-in-laws namely Azha Ansari, N.A. No. 7 and Asra Ansari N.A. No.

4 took her 35 tolas' gold ornaments and bangles of Meher without her consent. The N. A. Nos. 2, 4 and 7 repeatedly taunted about receiving sub-standard quality of presents on eve of Marriage (Nikah). The N. A. Nos. 5 and 6 i.e. brother-in-laws namely Asim Ansari and Mohammad Abdul Mukhtadeer harassed her on account of demand of additional dowry of Rs. 20,00,000/-. On 28.12.2022, She (Applicant) and her husband Respondent No.1 went to Dubai. Thereafter her divorced sister-in-law namely Azha Ansari N. A. No. 7 was visited at Dubai and continuously harassed her. On 18.01.2022, She with her husband/ N. A. No. 1 returned at Hyderabad. Thereafter, N. A. No. 1 and his family members again raised domestic violence against her, hence, prayed for monetary relief under the D.V. Act.

5. According to the Petitioners they never resided in one shared house with the N. A. No.1 and the Respondent no. 2/ori. Applicant but said fact cannot be decided at the initial stage without substantial evidence.

6. On 26/02/2024, the Co-ordinate Bench of this Court at Principal Seat passed an Order *in Criminal Application No.928 of 2022 (Lincen Louis Thommana and others vs. Leena Lincen Thommana)* and referred

the issue about entertaining the petition either under Section 482 of Cr.P.C. and/or under Article 226/227 of the Constitution of India to the Larger Bench and said issue is subjudice before the Larger Bench. Therefore, the proceeding of present matter is kept in sine-die till the decision of the Larger Bench.

7. Under these circumstances, the present Petition is hereby disposed off with liberty to the Petitioners to move after the decision of the Larger Bench. However, it is made clear that the learned Judicial Magistrate shall decide the interim application and shall conduct the trial but no final Judgment would be passed till the decision of Larger Bench observed above.

(Y. G. KHOBRADE, J.)

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