



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.220 OF 2024

SADHANA SATYWAN WATKAR AND ANR. .. APPLICANTS
VS.
SUSHMA RAVINDRA MONDE AND ORS. ..RESPONDENTS

Mr.Ajay Talreja a/w Mr.Vikas Talreja,for the applicants.
Mr. S. H. Yadav, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : MARCH 13, 2024

P.C. :

1. Heard learned counsel for the applicants.
2. The applicants by this application are challenging the proceedings filed under the Protection of Women from Domestic Violence Act 2005 (DV Act) being PWDV No. 61 of 2016 under sections 12, 17, 18, 19, 20, 22, 23 before the Judicial Magistrate First Class, Kalyan. Applicant no.1 and the respondent no.1 are related to each other. Applicant no.1 is the sister-in-law of respondent no.1 and the applicant no.2 is the husband of the applicant no.1. The respondent no.1 had filed the proceedings against the applicant no.1 and her mother-in-law- Anusaya Mukund

Monde before the Court at Kalyan. Anusaya expired on 18/02/2021 during the pendency of the proceedings. The mother-in-law of the respondent no.1 had filed a complaint against her son- Ravindra and respondent no.1 before Oshiwara police station and Deputy Commissioner of Police and also N.C. complaint with Amboli police station. According to the applicants, after N.C. complaint dated 31/01/2016 was filed by Anusaya-mother-in-law of respondent no.1 against her son Ravindra and daughter-in-law- respondent no.1, as a counter blast and in order to browbeat Anusaya Mukund Monde, the respondent no.1 filed the aforesaid complaint in respect of chawl premises situated at D'mellow Chawl, Sarota Pada, Near M.V.M. School, Veera Desai Road, Andheri (W), Mumbai 400058 belonging to the deceased Anusaya Mukund Monde, mother-in-law of the respondent no.1.

3. Inviting my attention to the averments in the DV complaint, learned counsel was at pains to submit that the respondents no.1 and 2 are residing at Sindhudurga. It is submitted that they never resided in the suit premises at Andheri. Learned counsel submitted that it is just once in a

while the respondent nos. 1 and 2 visited the premises and hence such visits cannot be construed as residence within the meaning of DV Act. He submitted that the DV proceedings are therefore liable to be quashed.

4. It needs to be noted that DV proceedings were filed on 16/05/2016 by the respondent no.1. The present application for quashing of the proceedings is filed only on 05/02/2024. The trial is at an advanced stage. I am informed that even evidence is over. A grievance is made by learned counsel for the applicants that proper opportunity to cross examine witnesses was not given. If it is so, it is always open for the applicants to seek appropriate remedy. This is one reason I am not inclined to interfere at this juncture. Upon perusal of the complaint, it cannot be said with certainty that the respondent no.1 was visiting the suit premises intermittently. The averment in the complaint is that the applicant no.1 is married and that she is residing at Sindhudurga. It is averred that instead of residing at the matrimonial home, the applicant no.1 (original respondent no.2) while staying at Andheri is harassing the respondent no.1 who is also residing in Andheri. I am therefore not

inclined to entertain the application. The application is rejected.

(M. S. KARNIK, J.)