



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

CRIMINAL APPLICATION NO. 656 OF 2023

Kapil Shivaji Thombare and ors. ..Applicants
VS.
Sou. Manali Kapil Thombare and anr. ..Respondents

Ms. Reshma Mutha i/b Mr. Soham Gunjal, for the applicants.
Mr. Aditya S. Raktade, for Respondent no.1.
Mr. S. H. Yadav, APP for the State-Respondent no.2.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 07, 2024

P.C. :

1. Heard learned counsel for the applicants and learned counsel for the respondent no.1.
2. The respondent no.1 is the wife of the applicant no.1. The marriage of the applicant no.1 with the respondent no.1 was an arranged marriage solemnized on 14/02/2020. There are some averments in the Domestic Violence ("DV", for short) complaint that there were misunderstandings between the couple. The applicant no.1 is hereinafter referred to as the 'husband' and the respondent no.1 is hereinafter referred to as the 'wife'. The husband was working in USA. The husband left for USA on 28/02/2020.

The wife left for USA on 13/03/2020. The wife resided in the matrimonial home after the marriage only for one month. While in USA, the relationship between the couple got strained. The wife therefore returned back to India on 28/06/2020. Since then, the wife is residing at her parental home in Kolhapur. The matrimonial home is at Pune. The DV complaint was filed before learned Judicial Magistrate, First Class, Kolhapur under the provisions of section 12 of the Protection of Women from Domestic Violence Act 2005 ("the said Act", for short) on 28/03/2023. In the DV complaint she alleged that even during the period of 1 month after marriage when the wife was residing in the matrimonial home, the in-laws i.e. applicants no. 2 to 6 were taunting her over her attire. It is then stated that though the wife was not well, the applicants forced her to accompany them to the temple. It is averred in the complaint that after coming back to India, the in-laws were insisting that she divorces her husband by mutual consent. It is averred that the in-laws were pressurizing the wife to divorce the husband. Learned counsel for the applicants submitted that it is the husband who paid for her flight

ticket back to India when the wife insisted that she wants to go back. It is submitted that the husband was treating the wife well and all the accusations made in the DV complaint are false.

3. The applicant no.2 is the father-in-law. Applicant no.3 is the mother-in-law. Applicant no.4 is brother- in-law who is residing in USA. Applicant no.5 is the husband's sister. Applicant no. 6 is the husband's brother in law. Learned counsel for the respondent no.1 submitted that there are specific allegations of ill-treatment and harassment against each of the applicants. It is submitted that the averments satisfy all the ingredients of offence which is punishable under the said Act.

4. I have carefully perused the application. The wife stayed at the matrimonial home hardly for 1 month after the marriage. During the period the wife was residing with the husband in USA, there is nothing to indicate that during this period, any of her in-laws visited her matrimonial home in USA. Reading of DV complaint does reveal that there are accusations against the husband. The arguments of learned counsel for the husband are without any merit as learned

counsel wants me to go through the entire material and render a finding of acquittal which at this stage is impermissible.

5. So far as the applicants no.2 to 6 are concerned, the allegations are vague and general in nature. Even after the wife came to India in June 2020, the DV complaint is lodged 3 years thereafter. There is every possibility that the accusations against the applicants no.2 to 6 appear to be exaggerated on account of marital discord which the wife has with the husband.

6. Hence, so far as the applicant no.2 to 6 i.e. the in-laws are concerned, I am inclined to allow the application and quash the criminal complaint pending before the Judicial Magistrate, First Class, Kolhapur for the offence punishable under section 12 of the said Act. The complaint may proceed on merits as against the applicant no.1.

7. The application is disposed of.

(M. S. KARNIK, J.)