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

WRIT PETITION NO.6245 OF 2019

1. MR. AMIT ANAND SHETTY
2. MR. ANAND SHETTY
3. MRS. PUSHPA ANAND SHETTY
4. MRS. SHEETAL MANOHAR SHETTY
5. MR. SAMIT ANAND SHETTY ..PETITIONERS
VS.

1. MRS. NIVEDITA AMIT SHETTY
2. THE STATE OF MAHARASHTRA ..RESPONDENTS

Adv. Raghava M. a/w Adv. Anvita Ail for the petitioners.
Adv. Kokila Kalra a/w Adv. Beerta H. Bajwa for respondent
No.1.
Smt. S. D. Shinde, APP for the State-respondent No.2.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 27, 2024.

P.C. :

1. This is a writ petition filed by the petitioner-husband and the in-laws of the respondent No.1-wife for quashing and setting aside the Miscellaneous Application No.88 of 2019 pending before the 10th Court of Judicial Magistrate First Class, CBD Belapur filed by respondent No.1-wife under the provisions of the Protection of Women from Domestic Violence Act, 2005 (hereafter 'DV Act' for short).

2. I have heard learned counsel for the petitioners. I have also heard learned counsel for respondent No.1-wife.

3. After the matter was substantially argued a request is made that the matter could be referred to mediation. This request is opposed by learned counsel for the respondent No.1-wife. It is submitted by learned counsel for respondent No.1-wife that the petitioner is in arrears of maintenance. This is denied by learned counsel for the petitioners. It is then submitted by learned counsel for the petitioners that there are several proceedings pending in this Court which could be clubbed together. He submits that one of the writ petition is before the Division Bench.

4. So far as the present writ petition is concerned, the same is filed, as indicated earlier, for quashing of domestic violence proceedings under the provisions of D.V. Act. I am inclined to decide this writ petition as it has nothing to do with the other proceedings between the same parties.

5. I have gone through the Miscellaneous Application No.88 of 2019 filed by the respondent No.1-wife on her behalf as well as on behalf of her minor daughter under

Sections 12, 18(A)(B)(D)(E)(F)(G), 19 (A)(C)(D)(E), 20, 21 and 22 of the DV Act. In this writ petition the petitioner No.1 is the husband, petitioner No.2 is the father-in-law, petitioner No.3 is the mother-in-law, petitioner No.4 is the sister-in-law, petitioner No.5 is the brother-in-law of the respondent No.1-wife.

6. Having carefully perused the averments made in the application, I find that the allegations attract the provisions of DV Act so far as the husband is concerned. The wife was all along residing in the flat at the address mentioned in the cause title which is at Nerul West, Navi Mumbai. The wife in her application has stated that the said address is the matrimonial home where she was all along residing. It is the case of the wife that the said flat is in the name of her father. The husband was pressurising her to transfer the said flat in his name.

7. The petitioner Nos.2 to 5 are the in-laws of the respondent No.1 residing in Mangalore. The parties are in restaurant/hoteling business. A perusal of the allegations against the petitioners Nos.2 to 5 reveal that the same are

general in nature. There is an allegation that the petitioner No.1 was constantly instigated by the petitioner Nos.2 to 5 over phone calls to act against his wife. It is then alleged that the petitioner No.1 used to behave rudely with his wife at the instance of the petitioner Nos.2 to 5. It is the contention of learned counsel for the wife that these allegations against petitioner Nos.2 to 5 are sufficient to indicate that they have committed the acts which fall within the purview of the provisions of the DV Act. The allegations further are in the nature that the petitioner No.1 was spending more time with petitioner Nos.2 to 5 at Mangalore and ignored all his responsibility and duties as a father and husband towards his wife and daughter. In the entire application there is nothing to indicate that the wife ever resided with petitioner Nos.2 to 5 at Mangalore. The allegations are that petitioner Nos.2 to 5 in connivance with each other used to brainwash the petitioner No.1 and cause disharmony in their married life.

8. DV Act defines 'domestic relationship' under Section 2(f) which reads thus :-

"2(f) "domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family."

9. Section 2(g) of the DV Act provides that the "domestic violence" has the same meaning as assigned to it in section 3. Section 2(q) of the DV Act defines "respondent" means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act. Section 2(s) of the DV Act provides that "shared household" means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or alongwith the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a

member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household.

10. From the averments made in the application it is obvious that respondent No.1 and petitioner Nos.2 to 5 never lived together in a shared household. The proceedings under the DV Act against the petitioner Nos.2 to 5 are therefore not tenable. The present writ petition deserves to be partly allowed. The Miscellaneous Application No.88 of 2019 pending before the 10th Court of Judicial Magistrate First Class, CBD Belapur under the provisions of the DV Act is quashed so far as the petitioner Nos.2 to 5 are concerned.

11. There are several allegations of harassment made against the petitioner No.1-husband which prima facie attract the ingredients of the provisions of DV Act under which he is prosecuted by the wife. The writ petition is therefore dismissed so far as petitioner No.1-husband is concerned.

12. I am informed that the complaint is transferred to the

Family Court, Thane. In view of the aforesaid observations, the matter to proceed before the Family Court, Thane as against the petitioner No.1-husband only.

13. The writ petition is disposed of.

(M. S. KARNIK, J.)