



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

CRIMINAL WRIT PETITION NO. 4588 OF 2022

SURYAKANT KISAN BHOSALE AND ORS. .. PETITIONERS
VS.
THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Mr.Vijay Karle, for the petitioners.
Mr.Akshay R. Kapadia, for respondent no.2.
Ms. Megha S. Bajoria, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : APRIL 12, 2024

ORAL JUDGMENT :

1. Heard learned counsel for the petitioners, learned APP and learned counsel for the respondent no.2.
2. By this petition, the petitioners are praying for quashing and setting aside the proceedings initiated against the petitioners viz. DV Complaint Case No. 277 of 2021 pending before JMFC Court, Belapur, Vashi, Navi Mumbai under section 12 of the Protection of Women from Domestic Violence Act, 2005 (DV Act, for short). Petitioner no.1 is the husband of the respondent no.2. Petitioner no.2 is the mother-in-law and petitioner no.3 is the sister-in-law of the

respondent no.2. The proceedings came to be filed before the DV Court by the respondent no.2 on 21/10/2021. Petitioner no.1 married respondent no.2 on 06/11/2003 according to Buddhist rites and customs. Petitioner no.1 is a government employee and teacher by profession teaching in a government school. Two children are born out of this wedlock, namely Aditi (daughter) and Ishan (son).

3. It is averred in the DV complaint that the petitioner no.1 purchased a one BHK flat in Vashi in August 2016 in Sector 26. It is the allegation that the petitioner no.1-husband made a forcible demand of Rs. 10,00,000/- from the respondent no.2-wife to purchase the said flat. An amount of Rs.5,50,000/- was paid by the respondent no.2-wife whereupon the flat (said flat) was purchased in the joint name of the husband and the wife. Petitioner no.1-husband availed the loan of Rs.18 to 20 lakhs. This fact was not disclosed by the petitioner no.1 to the respondent no.2. It is alleged that after the purchase of the flat, the petitioner no.1 started demanding money from the respondent no.2 and also insisted that the respondent no.2 should claim her half right in the entire property of her father and mother. It

is further averred that after her marriage, the petitioner no.2 - mother-in-law and petitioner no.3- sister-in-law started quarreling with the respondent no.2 on petty issues. Respondent no.2 was driven out of the matrimonial house whereupon the respondent no.2 started residing at the address mentioned in the cause title along with the petitioner no.1. There are averments in the complaint about the petitioner no.1 picking up quarrel and harassing the respondent no.2. One NC complaint was lodged by the respondent no.2 on 24/08/2021. It is averred that the petitioner no.1 used to taunt the respondent no.2 and also used to call friends of respondent no.2's brother and tarnish the image of the respondent no.2 by creating false and concocted stories about her. It is averred that in the month of October 2021, petitioner no.1 gave fist blow to their son and daughter. Petitioner no.1 told the respondent no.1 that he will not take care of the expenses of son and daughter.

4. Learned counsel for the petitioners submitted that present DV proceedings are filed only with a view to grab the property viz. said flat as is evident from materials on record. My attention is invited to the notice issued on

behalf of the respondent no.2 by her advocate to the lessee of the said flat calling upon him to vacate the flat. Learned counsel further submitted that there are hardly any allegations against the petitioner no.2 and petitioner no.3. DV proceedings are filed only with a view to harass the petitioners.

5. On the other hand, learned counsel for the respondent no.2 invited my attention to the averments made in the complaint in the DV proceedings and submitted that there are ample materials justifying the DV proceedings against the petitioners.

6. Having perused the materials on record. I am of the opinion that there are hardly any allegations in the application as against the petitioners no.2 and 3. The grievance of the respondent no.2 is mainly against the petitioner no.1- husband. In the application it has been averred that after the marriage which took place in 2003, the petitioner no.1 and respondent no.2 were residing separately. Except for the vague allegation that after marriage, the petitioners harassed the respondent no.2 and that she was driven out the matrimonial home on petty

issues, there is hardly any material against the petitioners no.2 and 3. The distance of time when it is alleged that the respondent no.2 was harassed by the petitioners no. 2 and 3 till the time of filing of the application is such that continuing the proceedings against the petitioners no.2 and 3 will result in miscarriage of justice apart from the fact that in the application very general and vague allegations are made against the petitioners no.2 and 3. However, so far as the petitioner no.1 is concerned, at this stage, it is not possible for me to arrive at a definite finding that the application is made to grab the property as the same entails a fact finding exercise.

7. The writ petition is therefore partly allowed in terms of prayer clause (b) qua petitioner no.2-Kalavati Kisan Bhosale and petitioner no.3- Vijaya Ganpat Bhosale. The DV application to proceed against the petitioner no.1- Suryakant Kisan Bhosale in accordance with law.

8. The writ petition is disposed of.

(M. S. KARNIK, J.)