

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 299 OF 2024**

Shridhar Dharmaji Dhanajkar ... Applicant

versus

Shalini Chandrashekha Kamble and anr. Respondents

Mr. Adwait Bhonde along with Mr. Omkar Phadtare, Advocate for the Applicant.

Mr. Vikas Nana Tambavekar along with Ms. Gayatri Rohit Powale, Advocate for Respondent No.1.

Mr. N. B. Patil, APP for the State.

CORAM : R. M. JOSHI, J.

DATE : 10th SEPTEMBER, 2024.

P.C. :

1. By consent of both sides heard finally at the stage of admission.
2. The applicants seek quashment of the proceedings filed by respondent No.1 under the provisions of the Protection of Women from Domestic Violence Act 2005 (for short "the DV Act").
3. Respondent No.1 is the daughter of applicant Nos.1 and 2 and sister of applicant Nos.3 and 5 and sister-in-law of applicant No.4. It is the case of the applicants that respondent No.1 after her marriage, before 16 years, has not shared domestic relationship with the applicants nor any domestic violence has been caused to her by them.

4. Learned counsel for the applicants has drawn attention of the Court to the application filed by respondent No.1 before the JMFC Pune wherein it is specifically stated that respondent No.1 was married on 9th November 2005 and since then, she was residing in her matrimonial home. It is contended in the said application that respondent No.1 is entitled to receive share in joint family properties and the same has been denied by the applicants. It is further argued that in paragraph 8, a vague statement has been made that on 3rd April 2021, she was driven away from the residential house by the applicants. He further submits that the notices which preceded to this application clearly indicate that there was no domestic violence caused by the applicants against respondent No.1 and the whole intention of respondent No.1 to file proceedings was to get the partition of the joint family properties, which is not permissible under DV Act. Thus, according to applicants, this is a case of abuse of process of the Court and as such, the proceedings filed by respondent No.1 deserves to be quashed.

5. Learned counsel for respondent No.1 vehemently opposed the application by contending that there is no dispute about the fact that respondent No.1 is blood relative of the applicants. It is his further submission that the matrimonial life of respondent No.1 is not going on well, as a result of which, she had asked for the help from the applicants, which was denied. It is submitted that the contentions in the application

before the magistrate are sufficient to prima facie hold that it is case of domestic violence and that the petitioners are not entitled to seek quashment of the said proceedings. Without prejudice to the aforesaid submissions, it is argued that in any case, respondent No.1 is entitled to receive her share in the joint family properties and her right to claim such share cannot be denied.

6. The DV Act provides for remedy to a woman who is subjected to domestic violence at the hands of the persons sharing domestic relationship. There is no dispute about the fact that respondent No.1 is daughter of applicant Nos.1 and 2 and sister of applicant Nos.3 and 5. However, as per the contention of respondent No.1 herself in the application filed before JMFC shows that since her marriage w.e.f 9.11.2005 she is residing at her matrimonial home. There is no specific averment in the application as to when she had started residing along with applicants and for the period after marriage, she shared domestic relationship with applicants. Similarly, there are no averments indicating the nature of domestic violence caused to her by them.

7. On the other hand, perusal of the legal notices issued on 17th November 2021 and 20th January 2022 clearly indicate that the grievance of respondent No.1 was only to the extent of claiming her share in the family properties. In these two notices issued through the advocate, there is no whisper of any domestic violence being caused by the applicants against her. This Court, therefore, finds substance in the contention of

learned counsel for the applicants that the statement made in paragraph 8 of the application is as vague as possible and on the basis of the same, the proceedings under the DV Act cannot be maintained. It further can be held that the proceedings filed under DV Act are malafide and to create pressure to get share in the family properties, without adopting remedy of approaching to the civil court. A shortcut is sought to be adopted by respondent No.1 by invoking provisions of DV Act, which is never intent of the said enactment. In this regard, reference can be made to the judgment of the Hon'ble Supreme Court in the case of **State of Haryana versus Bajan Lal 1992 Supp (1) SCC 335**, wherein it is held that whenever the Court comes to the conclusion that the proceedings filed are abuse of law, such proceedings deserve to be quashed.

8. Since on the basis of averments made in the application before the magistrate, it does not disclose that there was a domestic relationship shared by respondent No.1 with the applicants and during such shared relationship, domestic violence was caused against her, this is a fit case wherein this Court exercises its powers under Section 482 of the Cr.PC for quashment of the proceedings.

9. In the result of above discussion, the application stands allowed. The proceedings i.e. Criminal Miscellaneous Application No.2052 of 2022 stands quashed.

10. Even though it is held that the proceeding under the DV Act is not tenable and deserves to be quashed, this Court agrees with the submission made by learned counsel for respondent No.1 that it is open for respondent No.1 to seek her share in the properties of the family. Needless to say that dismissal of these proceedings would not come in way or create any impediment in such claim, if made by respondent No.1 before competent Court.

(R. M. JOSHI, J.)