



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 6 OF 2024

Jayashri Mohanlal Bhandari And Another .. Petitioners

Versus

Ashwini W/o Jitu Jain .. Respondent

Mr. Avinash M. Reddy, Advocate h/f Mr. Avinash Phad, Advocate
for the Petitioners.

Smt. Devika R. Patil, Advocate for Respondent (Appointed).

CORAM : KISHORE C. SANT, J.

DATE : 11th JULY, 2025.

PER COURT :-

. Heard the parties. Taken up for final disposal at the stage of admission.

2. The petitioners who are sister in law and her husband of the respondent No. 2 have approached this Court for quashing of the proceedings filed at the instance of respondent under the provisions of Protection of Women from Domestic Violence Act (for short “D.V. Act”) bearing Criminal Misc. Application No. 1659/2023 pending in the Court of learned J.M.F.C., Parali Vajnath to the extent of present petitioners. Few facts giving rise

to the present petition are as below :

3. The respondent married on 07.10.2016 with brother of applicant No. 1. From the marriage there are two daughters. It is alleged that, on that count there was harassment caused to the respondent. She, therefore, filed one complaint under Section 498-A of the Indian Penal Code (for short "I.P.C."). It is quashed as against the present petitioners by this Court in Criminal Writ Petition No. 767/2023 by order dated 24.09.2024. The respondent also filed proceeding under the D.V. Act for various offences. She filed proceeding under the D.V. Act where summons came to be issued.

4. The learned advocate for the petitioner vehemently argued that, the present petitioners are residents of Ahmedabad (Gujrat). They are residing separately from respondent. They never shared common household. Thus, there is no domestic relationship between the parties. He further argued that, even if the allegations are taken as it is, no case is made out under the D.V. Act as against the present petitioners. The learned Magistrate, however, issued notice without application of mind. Even as per

the allegation, the respondent was treated well for first 3-4 years after marriage. So called harassment started only after second female child. No specific instances are given against the present petitioners. No prayer is also made against the present petitioners. He thus prays for quashing of the proceedings to their extent.

5. The learned advocate for respondent (appointed) vehemently argued that, looking to the definition of Section 2 (a) of the D.V. Act, it is clear that, domestic relationship does not only mean that the parties should continuously be residing together. It is sufficient if it is shown that, at any point of time, the parties have live together in a shared household that would bring them within the definition of having domestic relationship. Considering this, she submits that, the present petitioners are necessary parties to the proceeding. There is allegation that, it is at the instigation of these petitioners the husband of the informant ill treats her. She thus submits that, clearly a case is made out to proceed even against the petitioners.

6. This Court has gone through the complaint under the D.V.

Act. It is seen that, the allegations are only against the husband. No specific allegations are found against the present petitioners. This Court has seen the order passed by the Division Bench of this Court quashing the proceeding under Section 498-A of the I.P.C. as against the present petitioners. The submission of learned advocate for respondent, even if considered, that at some point of time if the petitioners have lived together with the respondent, till complaint can be filed against them. However, looking to the contents of the complaint it is nowhere stated that, the present petitioners were also staying with the informant at any point of time. Thus, this Court does not find any substance in the submission on facts in the present case.

7. Considering all above, this Court has no hesitation in coming to conclusion that, petition deserves to be allowed. The criminal writ petition, therefore, is allowed in terms of prayer clause (B). The proceedings of Criminal Miscellaneous Application No. 1659/2023 pending in the Court of learned J.M.F.C., Parali Vaijnath is hereby quashed and set aside to the extent of present petitioners.

8. This Court appreciates the efforts taken by the learned advocate appointed for respondent. She shall be entitled to receive the fees as per the rules through Legal Aid Centre.

9. With this, criminal writ petition stands disposed of.

(KISHORE C. SANT, J.)

P.S.B.