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42-APPLN-372-2025

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

42 CRIMINAL APPLICATION NO. 372 OF 2025

Mohammed Gaus Mohammed Isaak Shaikh And Others

VERSUS

Sakera Mohammed Naim Shaikh And Others

...

Mr. Tarekmobin Hasan Shaikh, Advocate for Applicants.

Mr. Rameez Shaikh Advocate for respondent No.2.

CORAM : KISHORE C. SANT, J.

DATE : 2nd SEPTEMBER 2025.

PC :-

1. Heard learned Advocates for the parties. The application is taken up for final disposal at the stage of admission with the consent of the parties.

2. The present application is filed seeking quashment of the proceeding filed by respondent No.2 under the provisions of Domestic Violence Act bearing PWDVA No. 42 of 2022 pending before the learned JMFC, Ambad Dist Jalna.

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3. The petitioner Nos. 1 and 2 are the father-in-law and mother-in-law. Petitioner Nos. 3 and 5 are brothers-in-law. Petitioner No.4 and 6 are sisters-in-law of Respondent No.2.

4. It is the case of the applicants that they have never shared any common household and do not have any domestic relationship with the respondent. There are no allegation making out a case of domestic violence against them. The allegations are omnibus and not specific. The proceedings, therefore, deserves to be quashed and set aside.

5. The learned Advocate for the applicants in support of his submissions relied upon judgment in the case of ***Kahkashan Kausar and Ors. Vs. Sate of Bihar and Ors.***¹

6. The learned Advocate for the respondents vehemently opposed the application. He submits that the respondent No.1-wife has filed a complaint against the applicants because of harassment and acts of domestic violence. Earlier the applicants had approached this Court by filing Criminal Application No. 2949 of 2023. The same was withdrawn

1 AIR 2022 SC 820

on 15th July 2024. The second application for the same purpose is not maintainable. He thus prays for dismissal of the application.

7. Firstly, this Court has considered the submissions as to whether in the light of withdrawal of earlier criminal application the present application is maintainable. It is pointed out by the learned Advocate for the applicants that the said application was withdrawn under misconception that remedy to file appeal under Section 29 of the Domestic Violence Act is available. He submits that section 29 wholly provides appeal only against order passed by trial Court. Presently, in the application, prayer is for quashing of the proceeding itself. Section 29 does not provide for quashing of the proceeding. He thus submits that the present petition is maintainable. Looking to the order dated 15th July 2024, it does appear that there is substance in the submission of learned Advocate for the applicants. The wording in the said order shows that the application was withdrawn with liberty to file appeal under Section 29.

8. Coming to merits, it is seen that the allegations so far as present applicants are not specific. The allegations are omnibus. One allegation against the petitioner No.1 is only that when the respondent had been to him making grievance against the husband, this applicant told her that she is required to work and earn for her family. This in any case cannot be said to be an act of domestic violence except that, as already observed, there are no specific allegation. So far as judgment in the case of *Kahkashan Kausar* (*supra*) is concerned, this Court finds that the learned advocate for the petitioner has rightly relied upon the said judgment.

9. Though the said case is in respect of Section 498-A of IPC. However, the parameter is for quashing of the proceeding of such nature are set out in the said judgment. This Court finds that this judgment is clearly applicable in the facts of this case. This court has inclined to allow the criminal application. Hence, the following order:

ORDER

- (i) Criminal application is therefore allowed.

(ii) The proceeding of PWDVA No. 42 of 2022 pending before the learned JMFC, Ambad is quashed and set aside to the extent of present petitioners.

(iii) With this Criminal Application stands disposed off.

[KISHORE C. SANT, J.]