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

47 CRIMINAL APPLICATION NO. 1678 OF 2024

KAMALBAI WD/O. BHASKAR RAJGURE AND OTHERS

....Applicants

VERSUS

MINAKSHI W/O. DATTA RAJGURE AND ANOTHER

.....Respondents

Mr. A. S. Shejwal, Advocate for the applicants

Mr. Z. H. Farooque, Advocate for the respondent No.1

CORAM : KISHORE C. SANT, J.

DATE : 28th JULY, 2025

P. C.

1. Heard.

2. This application is filed seeking quashing of the proceeding of the PWDVA No. 396/2022 pending in the court of JMFC, Aurangabad. The respondents filed complaint under the Domestic Violence Act seeking various reliefs against the son of applicant No. 1, brother of applicant Nos.2 & 4.

3. It is the case that respondent No. 1 married on 11-

02-2017. It is alleged by respondent No. 1 that after marriage there was harassment at the hands of the present applicants and her husband. The learned Magistrate on going through the complaint, issued notice. The learned advocate for the applicants submits that after going through the entire complaint, there are no specific allegations made against any of the applicants. The applicants are residing separately since prior to marriage of respondent No.1. The marriage of applicant Nos. 2 and 3 took place on 15-05-2015. The applicant No. 2 is serving as Captain and he stays at the place of his posting. There is no material even to show that the applicants are in domestic relationship as required under section 2(f) of the said Act. He thus, submits that continuation of the proceeding would be an abuse of process of law and thus, prays for allowing the application.

4. The learned advocate for the respondents vehemently argued that all the applicants squarely fall in the definition of the word 'respondent'. The allegations are specific.

He further submits that this complaint is filed under Domestic Violence Act which is a beneficial legislation. While considering the complaint, the court has to keep in mind that no strict ingredients are required in the complaint as required under Section 498-A. The main aim of the Domestic Violence Act is to provide protection and to take welfare measures for women in the case of Domestic Violence rather than to punish the accused persons. On this background he submits that if the allegations are seen in this complaint those are sufficient to proceed against the applicants. He, thus, prays for rejection of the application.

5. The learned advocate for the respondent relied upon the judgment in the case of Shaurabh Kumar Tripathi Vs Vidhi Rawal¹. He relied on the para Nos. 35 and 36 of the case which is reproduced herein below:

“35. When it comes to exercise of power under section 482 of the Cr. P.C. in relation to application under section 12(1), the High Court has to keep in mind the fact that the DV Act, 2005 is a welfare legislation specifically enacted to give justice to those women who suffer from domestic violence and for preventing acts of domestic violence. Therefore, while exercising jurisdiction under section 482 of the Cr. P.C. for

quashing proceedings under section 12(1) , the High Court should be very slow and circumspect. Interference can be made only when the case is clearly of gross illegality or gross abuse of the process of law. Generally, the high court must adopt a hands-off approach while dealing with proceedings under section 482 for quashing an application under section 12(1). Unless the High Courts show restraint in the exercise of jurisdiction under section 482 of the Cr. P. C. while dealing with a prayer for quashing the proceedings under the DV Act, 2005, the very object of enacting the DV Act, 2005, will be defeated.

36. *We must also note here that against an order passed by a learned Magistrate, there is an appeal provided under section 29 to the court of sessions. In contrast, generally, there is no remedy of appeal available against an order taking cognisance of an offence or an order issuing process. This is another reason why the High Court should exercise caution when exercising its inherent jurisdiction to quash proceeding under section 12 of the D. V. Act, 2005.”*

He also submits that remedy for appeal is provided under the Act. Therefore, the applicants need not directly approach this court.

6. This court has gone through the complaint. It is seen that except husband and mother-in-law there are no specific allegations. The allegations against applicant Nos. 2 to 4 are that they gave promise to the respondents. Applicant No.2 used to

say she does not know how to cook properly. Applicant No. 4 used to say that in her marriage huge amount was paid, gold ornaments were also given. On the contrary respondent in her marriage did not bring much amount. On some occasion, it is alleged that applicant No. 2 used to say that respondent was not having equal status in the society and she is not fit to be member of family. It is stated in 2018 that respondent therefore left the matrimonial house.

7. However, looking to all the matters no exact dates are given. No exact role is attributed, so far as applicant Nos. 2,3 and 4 are concerned. This court finds that this proceeding is an abuse of process of law. The application is therefore, partly allowed. The proceeding of Domestic Violence Act bearing PWDVA NO.396/2022 pending before the learned JMFC, Aurangabad stands quashed and set aside to the extent of applicant Nos. 2,3 and 4.

8. Mr. Farooqui, learned advocate is appointed through

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the Legal Aid. He is entitled to receive the fees as per the Rules of High Court Legal Aid Services Sub-Committee.

[KISHORE C. SANT, J.]

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