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42-APPLN-3038-2023

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

42 CRIMINAL APPLICATION NO. 3038 OF 2023

Meera Vasant Patil And Others

VERSUS

The State Of Maharashtra And Others

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Ms. Manjushri V. Narwade, Advocate for Applicants.

Smt. M. N. Ghanekar, APP for Respondent-State.

Ms. R. L. Jakhade, Advocate for Respondent.

CORAM : KISHORE C. SANT, J.

DATE : 8th AUGUST 2025.

PC :-

1. Heard the learned Advocates for the parties.
2. The applicants are the original respondent Nos. 2 to 5 in Misc. Criminal Application No.373 of 2022 filed by the present respondent No.2 to 4. Respondent No.2 is married to one Rakesh Patil who happens to be son of applicant No.1 and brother of Applicant Nos. 2 to 4. The respondent Nos. 3 and 4 are the children of respondent No.2 and Rakesh Patil.
3. The respondent filed an application under the provisions of

Ethape

Domestic Violence Act. It is alleged that the husband of Respondent No.2 is in armed forces and stays away from home. For some time after marriage, the respondent No.2 stayed with her husband. Out of wedlock, respondent Nos. 3 and 4 are born. Since the husband is away from home, the applicant No.4, who happens to be elder brother, looks after the family, though he stays at Pune. Respondent No.3-son is staying in a boarding School namely, Atmamalik International School, Kokamthan at Kopergaon. It is alleged that when Respondent No.2 goes to visit respondent No.3, the officer in the school do not allow her to see the children as per the direction of the applicant No.4. On these allegations, complaint came to be filed. The applicants are therefore before this Court.

4. It is the case of the applicants that the applicant No.1 is an old aged lady and there are no specific allegations against her. The applicant No.2 is married sister-in-law who married even prior to the marriage of respondent No.2 and she stays at her matrimonial house. She occasionally comes to the house of the respondent No.2. The applicant

No.3 also stays at a different place. Respondent No.4 also resides at Pune. Thus, there is no shared household. The application, therefore, is not maintainable against them.

5. Learned Advocate for the applicant vehemently argued the case. She has taken this Court through the application filed by respondent No.2. She thus submits that in absence of domestic relationship, the application itself is not maintainable under the Domestic Violence Act. She thus prays for allowing the present application by quashing the proceeding of Domestic Violence Act. She relied upon the judgments in the cases of *Inderjit Singh Grewal Vs. State of Punjab and Anr.*¹ and *Ganesh and Ors. Vs. Sau. Nikita and Ors.*²

6. The learned Advocate for the Respondent also forcefully argued that all the applicants are the family members of Respondent No.2 to 4. The applicant No.1 is mother-in-law and against her there are specific allegations. It is specifically stated that she does not allow the children to meet their mother i.e. Respondent No.2. About the applicant No.4, she

1 (2011) 12 SCC 588

2 2021 (3) Bom.C.R. (Cri) 211

submits that there is a specific allegation that he does not allow even respondent No.2 to meet her child-Respondent No.3 in the school. She thus prays for rejection of the application.

7. After hearing the parties and going through the application, it is seen that there are some allegations against the applicant No.1. There are also specific allegations against applicant No.4. There are no specific allegations against Respondent Nos. 2 and 3. The applicant No.2 is a married sister who is staying away since prior to marriage of the present respondent No.2. In the complaint, no act of applicant No.2 is shown, which can be considered to be an act of domestic violence. So far as applicant No.3 concerned, no specific allegations are seen, except vague allegations that many a times he comes to home and harasses the respondent No.2.

8. Considering above, this court finds that there is some material against the applicant No.1 and 4. So far as, applicant Nos.2 and 3, there is no specific material. No relief is claimed against them. Considering above, this court is inclined to partly allow the application only to the

extent of applicant Nos. 2 and 3, the original respondent No.3 and 4.

Hence the following order:

ORDER

- (i) Criminal Application is partly allowed.
- (ii) The proceeding of Criminal Misc. Application bearing PWDVA No. 373 of 2022 pending before the learned JMFC, Dhule is hereby quashed and set aside to the extent of Applicant Nos. 2 and 3 i.e. respondent No.3 and 4 in the application before trial Court.
- (iii) So far as present applicant Nos. 1 and 4, the application stands dismissed.
- (iv) With this, application stands disposed off.

[KISHORE C. SANT, J.]