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28-APPLN-2925-2019

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

28 CRIMINAL APPLICATION NO. 2925 OF 2019

Varsha S/o. Yogesh Dhamne And Others

VERSUS

The State Of Maharashtra And Anr

...

Mr. Dattatraya R. Jayabhar, Advocate for Applicants.

Smt. C. C. Kutti, APP for Respondent-State.

Mr. D. R. Markad, Advocate for Respondent No.2.

CORAM : KISHORE C. SANT, J.

DATE : 10th JULY 2025.

PC :-

1. Heard for some time.
2. The present applicants are respondent Nos. 3 to 5 in Criminal Misc. Application No.530 of 2019, pending before the learned Chief Judicial Magistrate, Ahmednagar. This application was filed by Respondent No.2 under the provisions of Protection of Women from Domestic Violence Act, 2005 (for short "D. V. Act"). The present applicants are sisters of the husband of respondent No.2. They have

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approached this Court for quashing of the proceeding on the ground that there is no domestic relationship with the respondent No.2, and they are not sharing a common household. The applicants were married even prior to the marriage of respondent No.2 and residing in their matrimonial homes. They only occasionally come to their parental home.

3. Mr. Jayabhar, the learned Advocate for the applicants, submits that, at the most, the allegation is that the husband used to harass the wife at the instigation of the present applicants. Except for this, there is no allegation attracting the provisions of Domestic Violence Act. The learned Advocate, thus, prays for quashing the proceeding by allowing the application.

4. Mr. Markad, the learned Advocate for Respondent No.2, vehemently opposed the application. He submits that in the application, there is clear averment showing that it is the present applicants who instigate the husband and other respondents in the domestic violence proceeding. He thus, prays for rejection of the application.

5. From reading of the Criminal Misc. Application, it is seen that the allegation against the present applicants is that they happen to be the sisters of husband of the informant. Whenever they used to come to their parental house, they used to instigate the husband of the informant. They also used to humiliate and insult the informant. There is no allegation that they are residing together and sharing a common household. In the complaint itself, it is stated that whenever the applicants used to come to their parental house, they used to prejudice the mind of husband and mother-in-law of informant. Except that, there is no allegation of any overt act. There are no particulars given of any of the acts of the present applicants. From the prayer clause, it is seen that the prayer is only in respect of monetary relief and not to transfer the property. Further relief is prayed for protection. No prayer is seen against the present applicants. This Court finds that to keep the proceeding pending against the present applicants would clearly be an abused of process of law. Considering above, this Court is inclined to allow the application. Hence, the following order:

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ORDER

- (i) Criminal Application stands allowed.
- (ii) Criminal Misc. Application No.530 of 2019 pending before the learned Chief Judicial Magistrate, Ahmednagar, stands quashed and set aside to the extent of present applicants i.e. Respondent Nos. 3 to 5 in the proceeding pending before the learned trial Court.
- (iii) With this, criminal application stands disposed off.

[KISHORE C. SANT, J.]