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41-APPLN-3957-2023

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

41 CRIMINAL APPLICATION NO. 3957 OF 2023

Chandraprabha Shrikant Shelke And Another

VERSUS

Jyoti W/o Pradip Tele (Jyoti D/o Rajesaheb Aagale) And Others

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Mr. Anant Ramahari Devakate, Advocate for Applicant.

Mr. S. J. Salunke, Advocate for Respondent No.1.

CORAM : KISHORE C. SANT, J.

DATE : 2nd SEPTEMBER 2025.

PC :-

1. Heard learned Advocates for the parties. This application is taken up for final disposal at the stage of admission with the consent of the parties.
2. The Applicants have approached this Court seeking quashment of the proceedings filed under Section 12 of the Domestic Violence Act and presently pending in the Court of learned JMFC, Ambajogai, District Beed.
3. At the very outset, the learned Advocate Mr. Salunke raised an

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objection about the maintainability of the petition in view of availability of an alternative remedy under Section 29 of the said Act. He submits that every order is challengeable and appealable under Section 29 of the said Act before Sessions Court. For that purpose, he relied upon the judgment in the case *Nayan s/o. Govindrao More and Ors. Vs. Chaitali w/o. Nayan More*¹. This Court shall deal with the preliminary objection in the discussion part of this judgment.

4. The learned Advocate for the applicants submits that presently the petition is filed seeking quashment of the proceeding and no order as such is under challenge. He argued that present applicants are sister-in-law of the complainant and her husband of the informant, who has filed a complaint under Domestic Violence Act. On legal point, he submits that the present applicants married on 24th May 1997 and since then they are residing at Chh. Sambhajinagar. Thus, there is no domestic relation between them and the respondent, and as such, no proceedings is maintainable against them. On merits, he submits that looking to the allegations as it is, it is clearly seen that there are no specific allegations

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against these applicants. Only allegation appears in paragraph No.4 that the applicant No.1 had given some powder mixed in tea to the respondent and at that time, she also abused the respondent. He submits that taking the allegations as it is, no case is made out of domestic violence. He further submits that on the very same allegations, the respondent had filed a complaint under Section 498-A of the IPC. This Court had quashed the said complaint by judgment and order dated 25th June 2025 in Criminal Application No. 1672 of 2023 by observing that no case is made out against the present applicants. He further submits that there is no relief claimed against the present applicants. He thus submits that present petition deserves to be allowed.

5. In support of his submission, he relied upon the judgment in Criminal Appeal No. 2688 of 2025 decided by the Hon'ble Apex Court in the case of ***Saurabh Kumar Tripathi Vs. Vidhi Rawal***.

6. Coming to the point of maintainability, in the judgment in the case of Nayan More (supra), this Court has held that in view of availability of alternative remedy of filing an appeal before the Sessions Court, writ

petition would not be maintainable. From the judgment it is seen that a challenge was raised to an order passed below Exh.4 in the proceeding. This Court therefore, finds that the said judgment is not applicable in the present case since the present petition is filed for quashment of the proceeding itself.

7. So far as judgment in the case of ***Saurabh Kumar Tripathi*** (supra), the Hon'ble Apex Court held that the petition under Article 227 is maintainable. The High Court can exercise the power under Section 482 of Cr.P.C. Though the appeal is provided under Section 29, it is held that the power can still be used with care and caution. It is specifically held that the view taken by the various High Courts that the jurisdiction under Section 482 of the Cr.P.C. is not available to quash the proceeding under Domestic Violence Act is not correct. This court finds that the judgment is applicable to the present case. This court therefore answers the first issue about maintainability into affirmative holding that the writ petition under Section 482 of Cr.P.C. is maintainable.

8. So far as merits are concerned, this court finds that the allegations

are vague. No particulars are given as to what powder was mixed by the applicant No.1 in her tea. The only allegation found is that she abused her and had threatened the respondent not to disclose the incident to anyone. The further allegations are against the husband and mother-in-law of respondent, this court is presently not concerned with those allegations. So far as these applicants are concerned, this court finds that there is no sufficient averments making out a case to proceed against the present applicants. Very same allegations were levelled in a complaint under Section 498-A of the I.P.C. The Division Bench of this court has already dealt with those allegations and recorded that no case is made out and was pleased to quash the proceeding of 498-A complaint.

9. This court thus finds that there is no substance in the domestic violence proceeding initiated by the respondent. When no prayer is made claiming any relief against the applicants, to continue proceeding against them would only add to their mental agony and would amount to harassment. Continuation of the proceedings would be clearly an

abuse of process of law. This court is therefore inclined to allow the application. The proceeding deserves to be quashed and set aside. Hence, the following order:-

ORDER

- (i) Criminal Application stands allowed in terms of prayer clause (A) and (B).
- (ii) The proceedings of Criminal M. A. No. 461 of 2023 pending in the court of learned JMFC, Ambajogai Dist. Beed, is hereby quashed and set aside to the extent of present Applicants.
- (iii) With this, Criminal Application stands disposed off.

[KISHORE C. SANT, J.]