

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 342 OF 2024

Satish Shankar Holmukhe and Ors. Petitioners

Versus

Swapnali Satish Holmukhe And Anr. Respondents

Mr. Sanjay Bhojwani a/w Ms. Saniya Patki, Advocate for the Petitioners.

Mr. Sandesh B. Manikhedkar (Thorugh VC), Advocate for Respondent No.1.

Mr. S. H. Yadav, A.P.P., for the Respondent – State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 6th OCTOBER, 2025.

P.C. :

1. By this petition, the Petitioners have challenged the order dated 27th February, 2023 passed by the learned Judicial Magistrate First Class, Satara (for short, “JMFC”), thereby issuing notice to the Petitioners in Criminal M.A. No.166 of 2023.

2. It is contention of learned counsel for the Petitioners that Respondent No.1 has filed a complaint against the Petitioners under the provisions of Domestic Violence Act, 2005. Learned counsel further submitted that

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Petitioner No.2 is the brother-in-law of the Respondent No.1 and Petitioner Nos.3 and 4 are sisters-in-law of the Respondent No.1. They were not staying with the Petitioner No.1 and Respondent No.1. Only to harass them, the false allegations are levelled against them and they have been included in the application. There are no specific allegations against them, but learned trial Court has not considered this fact and has issued notice without application of mind. Hence, requested to allow the petition.

He relied on “*Shaurabh Kumar Tripathi Vs. Vidhi Rawal 2025 SCC OnLine SC 1158*”.

3. It is contention of learned counsel for the Respondent No.1 that Petitioners are family members of the husband of the Respondent No.1. They were staying together. The Respondent No.1 has specifically mentioned in the complaint about the atrocities committed by them on her. It will be part of evidence whether any case is made out against them or not. The learned JMFC has passed well-reasoned order, and no interference is required in it, and requested to dismiss the writ petition.

4. I have heard both learned counsel, perused the impugned order.

5. The learned JMFC has passed an order for issuing notice against the Petitioners. It appears from record that on 1st February, 2017, the marriage was solemnized between the Petitioner No.1 and Respondent No.1 at Satara. Thereafter, Respondent No.1 left premises of Petitioner No.1 on 26th October, 2017. On 22nd March, 2018, the Petitioner No.1 has filed a petition seeking divorce against Respondent No.1 before the learned Civil Judge, Panvel. Thereafter, on 28th March, 2018, Respondent No.1 has filed complaint against the Petitioners under Sections 498, 406 and 504 read with Section 34 of the Indian Penal Code, 1860 (for short, "IPC"). Thereafter, on 16th February, 2023, the Respondent No.1 has filed proceedings under DV Act against the Petitioners. It appears that the said proceeding is filed after 6 years, when the Respondent No.1 left the house of the Petitioner No.1.

6. It appears from the record that Petitioner Nos.3 and 4 were already married before the marriage of Petitioner No.1 and Respondent No.1. Petitioner No.2 was also married and residing separate from his family. So, the Petitioners were not residing with Respondent No.1 and husband of the Respondent No.1, but the learned Magistrate has not considered this fact, and has passed the

order of issuing notice which is perverse, and I pass following order:

ORDER

- i. The Writ Petition is allowed.
 - ii. The order dated 27th February, 2023 passed by the learned JMFC issuing notice to the Petitioners is quashed and set aside.
 - iii. The DV proceeding against the Petitioners is quashed and set aside.
 - iv. The contentions of the Petitioner No.1 are kept open.
7. In view of the aforesaid terms, the writ petition is allowed and accordingly disposed off.

(SHIVKUMAR DIGE, J.)