



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO.849 OF 2024

Sonali Pradeep Thombre and another
Vs.
Kalpana Pushkar Randhumal and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. I. S. Charlewar, Counsel for the applicants.
Mr. Sameer Janbandhu, Counsel for the respondent Nos.4 and 5.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 09/01/2025

1. By this application, the applicants are seeking quashing and setting aside the order of the issuance of notice dated 07.03.2024 passed by the learned Judicial Magistrate First Class, Chikhli in a Domestic Violence Proceeding bearing No.PWDVA.10/2024 dated 07.03.2024.

2. The respondent No.1 Kalpana Pushkar Randhumal was married on 25.01.2016 with Pushkar Bhikanrao Randhumal and thereafter, she resumed cohabitation at her matrimonial house. She had two children from the said wedlock namely Lakshika daughter and Shravan son. As far as the present applicants are concerned, they are the neighbours of the original complainant Kalpana Randhumal. It is alleged that after marriage, she was ill-treated by her husband as well as the other family members. As

far as the present applicant No.1 is concerned, it is alleged that she is the neighbour of the co-applicant i.e. husband and other family relatives and they assisted the other family relatives to ill-treat the complainant and therefore, she lodged the report under Section 498-A of the Indian Penal Code (for short 'the IPC') as well as filed an application under the provisions of Protection of Women from the Domestic Violence Act and claimed to various reliefs.

3. The present application is filed by the applicants on the ground that the FIR under Section 498-A of the IPC is already quashed by the Division Bench by observing that the applicants are neither close nor distant relatives of the informant lady. The law in this regard is fairly well settled and referred the judgment of the Apex Court in the case of **U. Suvetha Vs. State by Inspector of Police and anr.** reported in **(2009) 6 SCC 757** which has clarified the position that the persons other than relatives cannot be brought within the compass of Section 498-A of the IPC.

4. Learned Counsel for the applicant submitted that the similar analogy is applicable here as the present applicants were never in a domestic relationship and they are not within the definition of respondent therefore, the issuance of the notice by the learned Judicial Magistrate First Class, Chikhli

itself is erroneous and therefore, the said notice liable to be quashed and set aside.

5. Heard learned Counsel for the applicants. Though notice is served on the respondent Nos.1 to 3, none appears for the respondent Nos.1 to 3 after sufficient opportunity is given.

6. There is no dispute as to the fact that the present applicants are the neighbours and the recitals of the application nowhere state that there was any relationship between the respondent No.1 and the present applicants. Admittedly, they are the neighbours. Section 2(q) of the Protection of Women from the Domestic Violence Act, 2005 defines "respondent" and states here "respondent" means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act. The proviso of the said sub-clause (q) shows that provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner. The definition of the domestic relationship is also defined in the Act vide Section 2(f) which states as "domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a

relationship in the nature of marriage, adoption or are family members living together as a joint family.

7. Thus, considering the pleading of the original applicant admittedly, there is no relationship or there is no averment that at any point of time, the applicant (now respondent No.1) resided with the present applicants in a domestic relationship. Considering this aspect, the Division Bench of this Court has already quashed the proceeding under Section 498-A of the IPC. The observation of the Division Bench is relevant while deciding this application also, wherein it is observed that it is apparent from the Police report itself that applicants are neither close nor distant relatives of the informant lady. The law in this regard is fairly well settled and referred the judgment of the Apex Court in the case of **U. Suvetha** (supra) and observed that it has clarified the position that the persons other than relatives cannot be brought within the compass of Section 498-A of the IPC. In view of that, the prosecution against present applicants is wholly unsustainable.

8. By applying the same analogy, here also admittedly, the applicants are neither close nor distant relatives of the informant lady. They never resided in a domestic relationship and therefore, the criminal application deserves to be allowed. Therefore, I hereby quash and set aside the order

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of issuance of notice, in connection with the present applicants, issued by the learned Judicial Magistrate First Class, Chikhli, in the proceeding bearing No.PWDA. 10/2024.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate