

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.2952 OF 2023

Kirandeep Kaur Walia Pardhal & .. Petitioners
 Anr.

Versus

Asharani Dhyan Singh Pardhal & .. Respondents
 Anr.

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Ms. Beerta H. Bajwa for the Petitioners.

Mr. Vaibhav P. Punekar with Ms. Samreen A. Aptagiri and
 Mr. Kunal D. Patil for the Respondent No.1.

Mr. Y.M. Nakhwa, A.P.P. for the State/Respondent No.2.

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CORAM: BHARATI DANGRE, J.
DATED : 31st OCTOBER, 2023

P.C:-

1. The present Writ Petition is filed under Section 482 of the Criminal Procedure Code alongwith Article 226 of the Constitution of India, seeking quashing of the proceedings viz. Cr.M.A.345/MISC/2021 filed by Respondent No.1 before the J.M.F.C., Belapur against Petitioner No.1, her daughter-in-law and Petitioner No.2, brother of Petitioner No.1, invoking Sections 12, 17, 18, 19 and 22 of the Protection of Women from Domestic Violence Act, 2005 (for short, “**the DV Act**”). By way of an interim order, the proceedings are prayed to be stayed.

2. Heard the learned counsel for the Petitioners and the learned counsel for the Respondents.

With their able assistance, I have perused the pleadings in the Writ Petition as well as the Annexures appended thereto.

Respondent No.1, who is mother-in-law of Petitioner No.1, instituted proceedings before the J.M.F.C., Belapur, wherein she specifically pleaded that her son married Petitioner No.1 and, thereafter, both of them started residing at B/10, Room No.401, C.B.D. Belapur, Navi Mumbai separately, whereas she alongwith her husband was residing in B/10, Room No.401, C.B.D. Belapur, Navi Mumbai. A specific averment is made in paragraph 10 of the complaint, which reads thus :-

“10.It is pertinent to note that since marriage of her son and respondent no 1, the complainant and her husband gave her full privacy to the respondent no 1 and her son and never interfere in their married life.”

The accusations against the present Petitioners are about picking up unnecessary quibbles and this particular allegation is contained in paragraph 12, which read thus :-

“12. The aggrieved person state that the respondent no 1 started creating fights with the complainant and her family members including her son since February 2007. The respondent no 1 created fights with the complainant and her family members on the advice and instruction of Respondent no 2 and his family members. On 14th February 2007 for no reason the respondent no 1 started abusing and shouting on complainant and her son with a filthy language for the reason best known to her.”

3. It is the specific contention of the Complainant before the Magistrate that she removed her son from Flat No.404, where

he was residing together with Petitioner No.1, as there was lot of harassment and repeated abuses.

The complaint also level several allegations against Petitioner No.2, who is the brother of Petitioner No.1, her daughter-in-law. It is alleged that at his instance, she used to indulge in fights and abuse with the Complainant and even her son, and Petitioner No.2 on one occasion, had slapped her son without any rhyme or reason. In the entire complaint, the instances of harassment at the hands of daughter-in-law and her brother are specifically set out in support of the following reliefs :-

- “1. Restraining the respondents from this possessing or in any manner distributing the possession of the aggrieved person from the share household whether or not the respondent has legal or equitable interest in the share household.
- 2. Directing respondent no 1 remove herself from flat no 404 mentioned above.
- 3. Restraining the respondent or any relatives from entering any portion of share house hold i.e. mentioned above flat no 401 where the aggrieved person is residing.
- 4. Restraining the respondent from alienating or disposing of the said household or encumbering the same.
- 5. Restraining the respondent from renouncing her rights in share household accept with the leave of the Magistrate.

D. Compensation order u/s 22 of said act.

This Hon'ble Court be please to direct respondent no 1 and 2 to pay a sum of Rs 50 Lakhs as a way of compensation to the complainant for committing the Domestic Violence to her.”

4. Ms.Bajwa, the learned counsel for the Petitioners would vehemently submit that the institution of the proceedings by Respondent No.1, mother-in-law of the Petitioner No.1 is an after thought, as they are filed after Petitioner No.1 had lodged the complaint in the police station, resulting in invocation of Section 324, by submitting the necessary medical papers in

support of the allegation. Apart from this, even she herself had filed the DV proceedings against the husband on 11/11/2020 and in order to regal out of the said accusations levelled against her son, the mother-in-law has resorted to arm twisting tactics by instituting the DV proceedings against her.

5. On reading of the complaint, *prima facie*, I cannot conclude that the allegations are unsustainable or the occurrences of the events, as narrated, are false and, hence, the truthfulness of the accusation will be a matter of trial, when the relevant facts, which are pleaded in the complaint, are supported with evidence, adduced by the Complainant.

The power to be exercised under Section 482 of the Cr.P.C. is to be exercised sparingly and only when the continuation of the proceedings would amount to abuse of process of law. By accepting the complaint at it's face value and on reading of the complaint, I am unable to reach at such conclusion as far as Petitioner No.1 is concerned.

However, as far as Petitioner No.2 is concerned, since the proceedings under the DV Act has to be tested in the backdrop of the 'Domestic Relationship', which has a definite connotation, as defined in Section 2(f) of the Act, to mean 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.

The essence of the DV proceedings lies in the concept of sharing a household, though at any point of time. 'Shared household' is also categorically defined in Section 2(s) and I need not refer to the definition, but suffice to note that it definitely connote a household, where the person aggrieved lives or at any stage has lived in a domestic relationship, either singly or alongwith the respondent.

When I specifically asked the learned counsel for the Respondent No.1 to point out the pleadings in the complaint to the effect that Petitioner No.2 shared a household with Respondent No.1 or that he was in domestic relationship, he has invited my attention to the relevant complaint, where he is alleged to have been aggressive in assaulting the Complainant and on occasion, he was the cause of the brawl that took place in the family.

This is, in my opinion, is not sufficient to justify that they shared the domestic relationship, as visiting on some occasion as guest and indulging into act, would not bring him within the scope and ambit of 'domestic relationship' and, therefore, continuation of proceedings against him, since the complaint has invoked the provisions of the DV Act, by invoking Sections 12, 17 and 19 and seeking compensation, would amount to an abuse of process of law.

In the wake of the above, I deem it appropriate to quash the proceedings against Petitioner No.2-Ranjeet Singh Walia, who happens to be the brother of Petitioner No.1.

The Writ Petition is partly allowed in the aforesated terms.

Needless to state that the DV proceedings instituted by Respondent No.1 against Petitioner No.1, her own daughter-in-law, shall continue.

(SMT. BHARATI DANGRE, J.)