



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1391 OF 2023

Mohan Mangu Rathod And Others

VERSUS

Ujwala Sandip Rathod @ Ujwala D/o Sahebrao Chavan And Another

Mr. Rajat Patodi, Advocate h/f Patodi and Associates for the petitioners
Ms. P. P. Wangikar, Advocate h/f Mr. R. V. Gore, Advocate for respondent
Nos.1 and 2.

CORAM : R. M. JOSHI, J.

DATE : 13th DECEMBER, 2023

P.C. :-

1. Heard finally by consent of both sides.
2. Learned counsel for the petitioners submits that without their being domestic relationship as contemplated by Section 2(a) of Protection of Women from Domestic Violence Act (for short 'D.V.' Act') proceeding came to be filed against them due to cause harassment to the applicants. According to him, petitioners never shared domestic relationship with respondent. Thus, the proceeding under the D.V. Act is not tenable against them.
3. Learned counsel for the respondents strongly opposed the petition by drawing attention of the Court to the allegation made against the

petitioners in the petition.

4. In order to enable a woman i.e. aggrieved person to file proceeding under D.V. Act, existence of 'domestic relationship' may be at any point of time, is sine qua non.

5. Provisions of the D.V. Act defines aggrieved person. Section 2(a) of the D.V. Act reads thus:

"aggrieved person" means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent.

. It further defined domestic relationship under Section 2(f), which reads thus:

"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.

6. According to these definitions, domestic relationship between aggrieved person and respondent is sine qua non to maintain an proceeding under DV Act. In order to constitute relationship between two persons as domestic relationship, they must live or 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 joint family.

7. Perusal of application filed by Respondent before Magistrate shows that there is no averment that petitioners herein ever lived with Respondent in aforesaid relationships and are in domestic relationship with the respondent. Thus the essential condition of living together at least at any point of time is not met with, in order to maintain any proceeding against them.

8. This Court therefore finds merit in the petition. The proceeding in question cannot be allowed to be continuous against the Petitioner as it would be abuse of process of Court. Hence, the petition stands allowed in terms of prayer clause 'B'.

(R. M. JOSHI, J.)

ssp