

MHJN080015332023



**ORDER BELOW EXH.07 IN P.W.D.VA. NO.30/2023**

Respondents have filed present application for dismissal of proceeding filed under section 12 of Protection of Women from Domestic Violence Act by the applicants.

2. **Their Contention is as under :-**

Since date 01/08/2020 applicants are residing separately from the respondents. Application under section 12 of the Protection of Women from Domestic Violence Act is not filed within the period of one year. Therefore, the same is barred as per section 468 of Code of Criminal Procedure. The delay in filing the proceeding is not explained. There is no co-habitation between the applicants and the respondents. Hon'ble Family Court, Aurangabad has already directed the applicant no.1 to resume the co-habitation with the respondent no.1. But, applicant no.1 failed to comply the same. Applicants have suppressed the facts in respect of proceeding that took place before Hon'ble Family Court, Aurangabad. Application is filed on insufficient grounds. Hence, on these grounds prayed to dismiss the present proceeding.

3. Learned advocate for the applicants through his say below the application, has objected the same. He submitted that applicant was residing with the respondent no.1 till date 13/03/2023. During the co-habitation, respondent no.1 made demand of money towards the applicant no.1. For that she was tortured. On date 13/03/2023, applicants were thrown out of house. Present proceeding is filed within the limitation. Hence, prayed to reject the application.

4. Heard Learned advocate for both sides. Gone through the entire proceeding.

5. First submission of the respondents is that present proceeding is time barred as per section 468 of Code of Criminal Procedure, as applicants are residing separately from the respondents since date 01/08/2020. It is submitted that since long there is no co-habitation between the applicant no.1 and respondent no.1. The issue of limitation for filing the proceeding under section 12 of Protection of women from Domestic Violence Act is raised. For deciding the same, the relevant provisions of Protection of Women from Domestic Violence Act needs to be looked into.

Section 2 (a) **“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.

Section 2 (f) **“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.

Section 2 (s) **“shared household”** means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a house hold whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household.

6. In the present matter in hand, respondents have admitted that applicant no.1 is the wife and applicant no.2 is the child of the respondent no.1. It is not into dispute that respondent no.2 is the mother-in-law and respondent no.3 is the sister-in-law of the applicant no.1. On perusing the definitions of aggrieved person, the same mentions that any woman who is or has been in a domestic relationship with respondent. The definition of domestic relationship states a relationship between husband and wife, who live or have at any point of time, lived together in shared household. Furthermore, the definition of shared household mentions a household where the aggrieved lives or at any stage has lived in a domestic relationship with the respondent. All these definitions not only states about the present co-habitation between husband and wife but also states about their past co-habitation. To file proceeding under section 12 of D.V. Act, it is not necessary that wife and husband should be residing together. Their past co-habitation at any point of time is sufficient enough to file proceeding under section 12 of D.V. Act.

7. Protection of Women Domestic Violence Act, 2005 is a social legislature enacted to provide protection to the women who had or are suffering from domestic violence. There is no any time limit laid down by the Act, for initiating the proceeding under the Act. **Hon'ble Bombay High Court, Bench at Aurangabad** in the case **Ritesh Ratilal Jain and ors. Vs Sandhya and ors, in Criminal Writ Petition No.631/2011, MANU/MH/1469/2013**, observed that – *‘ thus, in strict sense, no time limit is fix for filing of the proceeding, if aforesaid things are made out by wife’*. **Hon'ble Supreme Court of India in the case of Prabha Tyagi Vs. Kamlesh Devi, MANU/SC/0631/2022**, held that - *‘ it is not mandatory for the aggrieved person, when she is related by consanguinity, marriage or through a relationship in the nature of the marriage, adoption or are family members living together, as a joint family, to actually reside with those persons against whom the allegations have been*

*levelled at the time of commission of domestic violence*'. The definition of the section 2(f) even covers the past relationship.

8. Respondents in their present application itself have admitted that applicant no.1 was in domestic relationship with the respondent no.1. Even if, the applicant at present is not residing with the respondent, does not bar her from filing the present proceeding. Considering the provision and after going through the above cited Judgments, I am of the opinion that, the present proceeding is very well maintainable and is not barred by the law of the limitation. Therefore, the submission made by the respondents is not tenable.

9. The second submission of respondents is that applicants have suppressed facts in respect of proceeding that took place before Hon'ble Family Court, Aurangabad. Present proceeding is filed stating that respondents have committed domestic violence on the applicant no.1. On that ground, applicants have prayed to grant protection order, maintenance, compensation and return of stridhan. Merely because, applicants failed to state facts in respect of proceeding that took place before Hon'ble Family Court, Aurangabad, this itself does not take away applicants right to claim reliefs under Protection of Women of Domestic Act.

10. Considering all above discussion, I come to the conclusion that the grounds raised in the present application are not satisfactory. Hence, the present application is liable to be rejected. Thus, the following order :-

### **ORDER**

The application is rejected.

Date : 05/06/2025.

(Chetan Jagtap)  
Judicial Magistrate First Class,  
Ghansawanagi.

**CERTIFICATE**

“ I affirms that the contents of this PDF file judgment/order are same word for word as per the original Judgment.”

Name of the Steno : Amar R. Gadade  
Name of the Court : Shri. Chetan Jagtap  
J.M.F.C., Ghansawangi.

Date of Judgment/order : 05/06/2025  
Judgment signed by PO on : 05/06/2025  
Judgment uploaded on : 05/06/2025