



MHKO0150004792024

P. W. D.V. A. No. 13/2024

Suchita & Ors. Vs. Sachin & Ors.

**ORDER BELOW EXH. 10.**

Respondent no.4 has filed this application for discharge. It is contention of respondent that, he is brother-in-law of applicant. The respondent no.1 to 3 are resided at title clause of application. He is resided at Flat No.604, 6<sup>th</sup> Floor, Yashoda CHSL, Plot No.71 & 72, Sector 34, Kamothe, Navi Mumbai- 410.206. His marriage was solemnized on 11.05.2011 at Pune. At the time of his marriage, he was residing with his parents at BARC, Mumbai. However, after marriage he has bought new house on 11.03.2013 at above mentioned address and moved their in same year. The allegations leveled against him are vague and unreliable. He having no domestic relations with applicant as no documentary evidence on record. Further, applicant to harass him intentionally array in present application. Since last 10 years he is residing at different place. Thus, prayed to discharge him from present proceeding.

2. Counsel for applicant filed his say backside of an application and strongly opposed. He contended that, present respondent is one of the instigator to harass applicant. The respondents with their common intention driven the applicant from their house. The

respondent no.1 filed an application for restitution of conjugal rights against applicant at Panvel. The applicant was appeared in that proceeding and that time the respondents return applicant to her matrimonial home. The present respondents having considerable involvement for committing domestic violence against applicant. If his application allowed, applicant would suffer great loss. Thus, in the interest of justice prayed to reject the application.

3. I have heard both counsels at considerable length. The much more submission of both counsels as per the contents of their application and say. In short it is contention of respondent no.4 is that, he is resided at different place than other respondents since 2013. Therefore, his domestic relations with applicant was not formed. The allegations leveled against him are vague and general. Per contra, it is contention of applicants that, the respondent no.4 having prime involvement for committing violence over applicant. The respondent no.4 instigating other respondents for the same. Thus, in absence of detailed evidence, prayed to reject the application. Further, they pointed the address given by respondents is in same society wherein other respondents resided.

4. On verifying record it shows that, respondent no.4 filed present application as he resided at different place. However, as per the address given by respondent no.4 he is resided within same society. Applicant specifically alleged against respondent

no.4. Prima-facie on basis of allegations made in the applications, this court found substance to proceed against this respondent. The specific defence taken by respondent as he resided in separate house from other respondents will be acceptable at the time of trial.

5. The present respondent resided in a same society. Further, notice of proceeding served to him on given address in the application. Applicant specifically pleaded that, all respondents resided jointly and after marriage she joint to them. Except copy of sale deed, respondent has not filed other documents on record to show that, he is completely separated from other respondents.

6. The authority cited by respondent of Hon'ble Panjab and Hariyana High Court in Pawanjeet Kaur Vs. Daljeet & Ors. (CRR No.3513/2016, dtd.26.04.2017), Hon'ble Delhi High Court Vijay Varma Vs. NCT of Delhi & Ors. (CMC No.3878/2009, dtd.13.08.2010)and Hon'ble Gujrat High Court in Harsukhbai Rajpara Vs. State of Gujrat & Ors. (CMA No.5749/2009, dtd.03.03.2017) having different facts in case in hand. In above authorities, there is no averments of domestic relations made by applicant. However, in case in hand, applicant specifically pleaded her domestic relations with respondents and leveled allegations against each of them.

7. Therefore, in absence of trial it could not be safe to conclude that, there is no existence of domestic relations within applicant

and respondent no.4. It would be decided after trial. Hence, this application is premature at this stage and devoid merits. Thus, in result of above discussion, I pass following order,

**ORDER**

Application stand rejected.

Ajara.  
Dt. 28.04.2025.

( R. P. Thore )  
J. O. Code No. MH 02897  
Judicial Magistrate First Class,  
Ajara.

