



ORDER BELOW EXH-21

1. I have perused the application, say, documents and citations filed on record. I have heard counsels of both the sides.

2. The respondents in this application pray that the names of respondent nos. 2 to 4 be deleted from the case. They alleged that applicant no. 1 and respondent no. 1 resided at different places after marriage for education and service etc. They also submit that applicant no. 1 and respondent no. 1 lastly cohabited in June-2018 at Saswad. Respondent no. 3 and 4 never used to go to shared household of applicant no. 1 and respondent no. 1. Respondent no. 4 resided at Pune for education since 2007. Respondent no. 3 was doing service. Respondent no. 4 married on 11.02.2015 and residing at her matrimonial home. It is further alleged that applicants have unnecessarily implicated respondent nos. 2 to 4 and hence, their names may be deleted with costs of Rs. 1,00,000/- to each of the respondents.

3. This application is opposed by the applicants on the ground that section 25(2) of D.V. Act is not attracted. Respondent no. 3 was coming to shared household of applicant no. 1 and respondent no. 1 and was illtreating applicant no. 1. It is also alleged that after marriage respondent no. 4 was visiting shared household of applicant no. 1 and was instigating respondent no. 1. The applicants also submit that applicant no. 1 lodged crime no. 786/2023 under section 498-A of IPC

against respondent nos. 2 to 4 with Saswad police station. It is also alleged that respondent no. 2 is a colleague of respondent no. 1 in his office and they are in love and respondent no. 2 also tortured to applicant no. 1.

4. I have perused the pleadings made by the applicant in the main application at Exh. 1. From the pleadings it appears that the applicants have narrated the incidents of domestic violences against the respondents. The applicants have made various allegations in the main application. After perusing the contents of main application Exh. 1 it does not appears that respondent nos. 3 and 4 have no concern with the present case. The fact that respondent nos. 3 and 4 not committed any act of domestic violence would be ascertained after evidence.

5. I have perused the copy of index-II, education papers and N.C. complaint referred by counsel for respondents. However, I have already pointed out hereinabove that the facts putforth respondents are to be determined after evidence. So far as respondent no. 2 is concerned, she alleged to be colleague in the office of respondent no. 1. The applicants are making allegations of extra marital affair of respondent no. 2. So respondent no. 2 can't be said to be in domestic relationship with respondent no. 1 and applicant no. 1 as per section 2(f) and (q) of the D.V. Act. There is no question of respondent no. 2 residing in the shared household of applicant no. 1 and respondent no. 1. Occasional visit does not mean that respondent no. 2 resided with them in the shared household. According to applicants,

respondent no. 2 is not relative of husband but a colleague in the office, etc.

6. The counsel for applicants referred citations in the case of (i) Kusum Harsora Vs. Union of India, reported in 2015(7) ALL MR 104, (ii) Archana Naik Vs. Urmilaben, reported in 2009 ALL MR (Cri) 2849 and (iii) Jaydipsinh Jhala Vs. The State of Gujrat, reported in 2010 ALL MR (Cri) Journal 193. I have perused all these citations. With respect, I say that the facts in the citations are not applicable to present case as the facts in the citations are different with the facts of present case. So also counsel for applicants failed to satisfy this court the relevancy of these citations in the peculiar facts of present case.

7. The counsel for applicants argued that the application is not tenable as per section 25(2) of the D.V. Act since there is no change in the circumstances. I dis-agree with this submission in light of above discussion. Therefore, in the interest of justice and for avoiding abuse of process, it would be appropriate to partly allow the application to delete name of respondent no. 2 who is a colleague of respondent no. 1. Hence, I pass following order:

ORDER

1. Application Exh. 21 is hereby partly allowed.
2. The name of respondent no. 2 be deleted from this case.
3. No costs.

Date:- 08/07/2024

(Md. Taher Bilal)
Judicial Magistrate First Class, Saswad.

CERTIFICATE

I affirm that the contents of this P.D.F file Judgment are same word for word as per original Judgment.

Name of Steno	:	Nitin M. Shinde, Stenographer (Grade III)
Court Name	:	Shri. Md. Taher Bilal Civil Judge Jr. Division, Saswad.
Date of Order	:	08.07.2024
Judgment signed by presiding officer on	:	08.07.2024
Judgment uploaded on	:	08.07.2024