

ORDER BELOW EXH. 15

Respondents have filed application for dismissal of complaint i.e. present P.W.D.VA. Application No. 53 of 2023.

2. The learned advocate for the respondents submitted that the P.W.D.VA. Application No. 53 of 2023 is preferred by the applicant against the respondents before this Hon'ble Court, which is pending for the consideration. The above application is the abuse process of law and it is not maintainable in the eyes of law. Further, the Respondents states that the applicant has suppressed the material fact while preferring the present application before this Hon'ble Court and without citing the facts and details. The applicant has used the law as a tool to harassed the respondents. The applicant has committed the perjury in the eyes of law by suppressing the material facts, while preferring the above said application before this Hon'ble Court.

3. The respondents further states that before filing of this application the applicant had already filed a similar complaint/application on same facts by invoking the Provisions of Domestic Violence Act, 2005 before the district-Varanasi. The applicant has preferred the similar application bearing application no. 2161 of 2020 before the Hon'ble Civil Judge Junior Division at Varanasi. Hereto Annexed and Marked as an "Exhibit-A"(Colly) copy of the certified copy obtained from the Hon'ble Court at Varanasi of Case No. 2161 of 2020. The Respondent's further submitted that while preferring the application before the Hon'ble Court at Varanasi, the applicant and her relatives created pressure to the respondent for the amicable settlement between the parties thereafter the amicable settlement happened between the parties and applicant agreed for the alimony Amounting of Rs. 15,00,000/- (Rupees Fifteen Lakh Only) and accordingly, the parties have settled the disputes amicably outside the Hon'ble Court and accordingly, the applicant promised to withdraw the pending case and also, she further agreed that she will not file any other further litigation or any claims before any court.

4. The respondents further submitted that the applicant has

committed the perjury and suppress the material facts to this Hon'ble Court and without withdrawing the similar application filed before the Varanasi court and despite of the amicable settlement the applicant presented this present application with malafide intention to harass or to extort more money from the respondents before this Hon'ble court i.e. P.W.D.VA. No. 53/2023 on dated 7/12/2023. That the respondent's states that the similar D.V. application No. 2161 of 2020 was withdrawn on 20/03/2024 from the Hon'ble Court at Varanasi and prior to that this application was preferred. Though, this is the second case/application filed by the complainant under the provision of D.V. Act and therefore as per the as per the provisions of law, the respondents cannot be prosecuted twice for the same offence hence this complaint all under the preview of section 300 of Cr.P.C. Therefore, he prayed for allowing his application.

5. The learned advocate for the applicant through his say submitted that applicant has filed P.W.D.VA. Apln No. 2161/2020 against the respondent at Varanasi. But, as the applicant was residing with his brother, she was unable to remain present in the Court of Varanasi. Due to which, she sou-moto withdrew the said application. She has filed withdrawal order on the record. There is no other application pending against the respondent in Varanasi Court or any other Court. Also, there is no any order passed in the P.W.D.VA. Apln No. 2161/2020 against the respondent. Hence, prayed for rejection of the application.

6. Heard both sides at length. Perusal of application, say and documents filed on record. It reveals that applicant had herself withdrawn the said application P.W.D.VA. Apln No. 2161/2020 by moving application dated 21.12.2023, due to her inconvenience to remain present in the Court as she was residing with her brother at Mumbai. I have gone through the withdrawal order passed by the Varanasi Court on 20.02.2024. It reflects no any final order about the maintenance. Also, there is no any order or decision passed on merit of the said application. On the contrary, respondent did not file any evidence or documents in support of his application and allegations.

7. It is alleged by the respondent that the applicant and her relatives created pressure on him for amicable settlement and agreed for compromise at the cost of Rs. 15,00,000/- and to withdraw the said application and will not file any other litigation against him. Respondent further alleged that applicant has committed perjury and suppressed material facts from the court and filed this application prior to the withdrawing the application pending before the Varanasi Court. However, in support of the above allegations respondent did not give any evidence to prove the fact that applicant received the amount of Rs. 15,00,000/- or that she committed perjury. So, in the absence of evidence or proof of the above allegations. It can not be said to proved on the basis of mere oral allegations in the application. Also, there is no any order passed on merit in the earlier application pending before the Varanasi Court. So, in view of the above and the fact that the applicant had herself withdrawn the earlier application pending before the Varanasi Court. The application deserves to be rejected. Accordingly, I pass the following order:-

ORDER

The application is rejected.

Date- 17/10/2025

(J.A. Zari)
Judicial Magistrate, F.C. Shirur, Pune