

MHPU250012362021 	Cri.M.A./250/2021 Priyanka Shripad Sabale Vs. Shripad Sadashiv Sabale
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ORDER BELOW EXH 21 IN Cri.M.A. 250/2021

The present application has been filed by the respondent no. 5 for deletion of her name as respondent in the present proceedings. The applicant has filed her say at Exh. 33.

2. Read the application and say. Heard Ld. Advocates for both parties.

3. Ld. Advocate for the respondent no. 5 urged that, the said respondent has been falsely implicated in the present proceedings. That, the said respondent is married and resides at her matrimonial house at greater Noida along with her husband which has been intentionally concealed by the applicant. It is further submitted that, since the respondent has never lived in a domestic relationship with the applicant, she is entitled to be discharge from the present proceedings. Hence, prayed that her name be deleted as respondent in the resent case.

4. Per contra, the Ld. advocate for the applicant contended that, the present application is false and frivolous and is filed only to delay the present proceedings. It is further submitted that, the applicant has specially contended various incidents of domestic violence committed by respondent no. 5 against her in her main application. Hence, prayed that application be rejected.

5. Perused the record. Considered the submissions for both parties. Following are the points that have arisen for my determination along with the findings thereon based on the reasons as under:

Sr. No	Points for determination	Findings
1.	Whether the respondent no 5 is entitled to have her name deleted from the present case ?	Yes.
2.	What Order ?	Application is allowed.

REASONS

As to point No. 1

6. At the outset, the relationship between the parties interse is not disputed. Before delvyng into the merits of the application, it would be profitable to refer to the definitions of ‘aggrieved person’,

‘domestic relationship’, ‘respondent’ and ‘shared household’, as provided in Section 2(a), 2(f), 2(q) and 2(s) of the D.V. Act, which reads thus:

(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;

(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;

(q) “respondent” means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:

“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;

7. According to the said definition before proceeding against any person under the said act two ingredients must be satisfied. i.e. I) The persons must be or must have at any point in time been in a domestic relationship with the applicant. II) The said person must have subjected the applicant to any act of domestic violence. The sine qua non for existence of “domestic relationship” is living in present or in the past in a shared household as defined under Section 2 (s) of D.V. Act.

8. As per the fact of the present case, respondent no. 5, married sister of law of the applicant, subjected the applicant to domestic violence. What needs to be ascertained is whether they lived in a shared household or not.

9. Pertinently, in her affidavit, respondent no. 5 has stated that she resides at X-834, Jal Vayu Vihar, Pocket-4, Greater Noida, Gautam Budh Nagar, Pin-201308 (UP) India, alongwith her husband since her marriage on 16/05/2009. The said fact has not been specially denied by the applicant. Even though the applicant in her main application has mentioned the common residential address of all the respondents, it has come in her pleading that respondent no. 5 used to occasionally visit the applicant's house and hurl abuses at her. This clearly shows that the said respondent did not live in the shared household along with her, which is one of the important aspect to be considered before arraying any persons as respondent in a proceedings under the said act.

10. Moreover, the allegations against the respondent no. 5 as stated in the main application are general in nature. There are no specific acts of domestic violence alleged against the said respondent. The only statements that can be seen is that the said respondent used to hurl abuses and support the other respondents in committing acts of violence. However, such statements do not prima facie establish that respondent no. 5 committed acts of domestic violence against the applicant. What abuses were hurled are not mentioned. There is no mention of any specific incident to underscore commission of domestic violence.

11. It will also be beneficial to refer to the judgment of Hon'ble Bombay High Court in *Avinash s/o. Rangnath Bhokare vs. State of Maharashtra and Ors*, **Criminal Application No.4281 of 1999**, wherein it was held that that it would be sheer abuse of process of law that merely because they sometimes visited their parental house, they were sharing the household with the aggrieved person within the meaning of Section 2(f) of the D.V. Act so as to constitute a domestic relationship as defined under Section 2(f) of the D.V. Act.

12. Thus, in view of the above discussion, it appears that the respondent no. 5 is entitled to be discharged or have her name deleted from the present case. Hence, point no.1 is answered in the affirmative and in answer to point 3, following order is passed:

ORDER

1. Application is allowed.
2. Respondent no. 5 Sujata Dyaneshwar Nighot is hereby discharged from the present case.

Sd/-

Place : Junnar

(S.S. Jain)

Date : 17/03/2026

Judicial Magistrate First Class,
Junnar,