

Cri. M. A. No.39/2024
CNR No.MHRG090003022024

ORDER BELOW EXH.19.

The non-applicant no.2 & 3 have filed present application for getting deleted their names from main application which is filed under section 12 of the Protection of Women from Domestic Violence Act 2005 (for short the DV Act) by the applicant. They submitted that the applicant has impleaded them as her father-in-law & mother-in-law in application, however, it is admitted fact that they never visited or even stayed for single day with the applicant & non-applicant no.1. They also submitted that as there is no domestic relationship between them, the main application is not tenable against them. There is no individual Act attributed to them and general sweeping allegations are made against them, they did never subject the applicant to domestic violence. As there was no subsisting domestic relationship between the applicant & them, they should not have been added as a opponents in main application. Hence, they prayed for deletion of their names from the main application.

2. The applicant opposed to present application by filing her detailed say at Exh.35. She contended that the present application is not tenable. Purpose of DV Act is that the female should not be subjected by her in laws to domestic violence. Not only the husband but his relatives come within purview of section 2(q) of DV Act. The applicant made allegation against her husband along with her in laws and if their names are deleted from the application, purpose of present case will be frustrated. Hence, she prayed to reject the

application.

3. Heard learned Advocate Shri. D. T. Padwal for the applicant. He argued that considering allegation made against the present non-applicants in main application, it prima facie appears that they subjected the applicant to domestic violence. Present application is filed for purpose of time-killing, which cannot be allowed at this stage for want of evidence. Hence, Shri. Padwal prayed to reject the application. Present non-applicant no.2 & 3 did not bother to advance their arguments despite sufficient time and opportunity.

4. The present application is filed for deletion of names of the parties. As per section 28 (1) of the DV Act though all proceedings under section 12 of the DV Act shall be governed by the provisions of Code of Criminal Procedure, 1973, as per section 28(2) no Court is prevented from laying down its own procedure for disposal of the application filed under section 12 of DV Act. Further, considering quasi-civil nature of the proceeding under the DV Act, as per Order 1 Rule 10(2) of the Code of Civil Procedure, 1908 the present application can be entertained.

5. Perused the record. In main application filed under section 12 of the D. V. Act the non-applicant no.2 & 3 are impleaded as a party, but certainly there is no mention that the applicant at any point of time has lived with them. As per case of the applicant the non-applicant no.1 was residing with her in her parental home. The

aggrieved person under section 2(a) of the D. V. Act requires a domestic relationship and as per section 2(f) of the D. V. Act domestic relationship means a relationship between two persons who live or have at any point of time, lived together in as shared household. But in present case the applicant & non-applicant no.2 & 3 have never resided together sharing the household.

6. In case of Hon'ble Bombay High Court which titled as **Dhananjay Mohan Zombade & Ors. Vs. Prachi Zombade Cri. Appl. No. 312 of 2023** it is held that in order to constitute domestic relationship, the family member of the aggrieved person must be living together with the aggrieved person as joint family. In present case non-applicant no.2 & 3 were not living with the applicant. As per ratio laid down by Hon'ble Delhi High Court in case of **Vijay Verma Vs. State of NCT of Delhi & anr reported in MANU/DE/1946/2010** interpretation of word “at any point of time” of section 2 (F) is made and clarified that the domestic violence can take place only when one is living in “shared household” with the respondents. When such acts of violence take place when one is living separated, these may be punishable under different provisions of IPC or other penal laws, but, they cannot be covered under DV Act. In instant case it is cleared that the non-applicant no.2 & 3 were not in domestic relationship with the applicant since they were not residing in share household with the applicant, therefore they cannot be impleaded in instant case as non-applicants. So far as allegations made against them in the main application are concerned, the applicant has liberty to file another criminal case against them,

however they cannot be forced to face present litigation. Thus, no need to proceed against the non-applicant no.2 & 3 for want of required ingredients of domestic relationship and sharing household, the non-applicant no.2 & 3 are not necessary party in present proceeding and their names must be deleted. Hence, following order.

ORDER

1. The application is allowed.
2. Names of the non-applicant no.2 & 3 are deleted from main application.
3. The applicant to note of this order.

Place: Roha
Date :- 01.12.2025

(S. V. Khaire)
Judicial Magistrate First Class,
Roha.