IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Amk

CRIMINAL APPLICATION NO. 160 OF 2011

Sejal Dharmesh Ved .. Applicant
Vs.
The State of Maharashtra & Ors. .. Respondents

Mr. Amit S. Dhutia i/b Niranjan Mundargi for the Applicant.
Mrs. A. A. Mane, APP for Respondent No.1-State.

CORAM : MRS. ROSHAN DALVI, J.
DATE : 7th MARCH, 2013.

P.C.

1. The applicant-wife has challenged the order of the Court of Sessions at Greater Bombay dated 27.10.2010 holding that her application under the Prevention of Women from Domestic Violence Act, 2005 (D.V Act) is not maintainable because she was not in any domestic relationship.

2. The applicant married on 04.05.1999. She lived with her husband in the US. There are two issues from the marriage. She returned to India on 11.02.2009.

3. She filed her application under the D.V Act on 18.01.2010.

4. The learned Judge has considered that under these circumstances, she having come to India in February, 2009 and having filed this application in January, 2010, there was no domestic relationship between the parties. The learned Judge has considered the definition of domestic relationship. Of course, that relationship is defined to be one of which the party then lived and had earlier lived. That would be during the subsistence of the union between them. The application under the D. V. Act could be filed, when the marriage

union subsisted. That having came to an an end and long after the physical relationship came to be an end, she having returned to India, she cannot be taken to be living in any domestic relationship in India.

5. A wife who lived in a domestic relationship earlier, but which ceases only because of any domestic violence can certainly file an application for such domestic violence that took place whilst she lived in that relationship. Such application is required to be filed within a reasonable time to show that relationship would give her the cause of action to sue under the D.V. Act for the reliefs under the Act.

6. A wife who has returned from the USA and consequently from the domestic relationship and lived in India for one year cannot file an application with regard to that relationship after such time. Such wife cannot be taken to be in any domestic relationship. The order of the learned Judge is, therefore, correct. The writ petition is completely devoid of merits and accordingly dismissed.

(ROSHAN DALVI, J.)