

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 212 OF 2015

Mrs. Asha Ramesh Punamiya ... Petitioner.

V/s.

Ramesh Thakkarchand Punamiya & Anr. ... Respondents.

Mrs. Asha R. Punamiya, the Petitioner in person.

None for Respondent No.1.

Mr. A.R. Patil, APP for the State.

CORAM : M.L.TAHALIYANI,J.

DATE : 13th MARCH, 2015

P.C. :

1 Not on board. Mentioned. Taken on production board.

2 Admit. Heard finally.

3 Heard the petitioner-in-person. Perused the impugned orders passed by the learned Magistrate and the learned Additional Sessions Judge. In my opinion, the learned Magistrate has not appreciated the material on record properly. He has wrongly interpreted the judgment of the Hon'ble Supreme Court in the matter of **D'Velusamy** vs. **Patchaiammal** reported in AIR 2011 SC 479. The learned Magistrate should have realized that the legal marriage is not a

condition precedent for granting relief under the Protection of Women From Domestic Violence Act. It is sufficient if, prima facie, it is shown that the Petitioner was living with Respondent No.1 -Ramesh Thakkarchand Punamiya and the relationship was in the nature of marriage. The learned Magistrate was under an obligation to consider her prayer for interim relief. Since the interim order has gone in wrong directions and since the appellate court upheld the same, I hereby set aside both the orders passed by the learned Magistrate and the Additional Sessions Judge. It is directed that it is necessary for the learned Magistrate to decide the application finally on merits within a period of two months. Considering the material found on record and the photographs of the applicant and respondent no. 2 and other material which was placed before the Magistrate, I am of the view that the Petitioner is entitled for interim relief till the application filed by her under section 12 of the Protection of Women From Domestic Violence Act is decided.

4 I, therefore, pass the following order.

- i The orders passed by the Judicial Magistrate and the Additional Sessions Judge are set aside.

ii. The learned Judicial Magistrate is directed to decide the application of the petitioner within a period of two months from the date of the receipt of this order.

iii. It is further, directed that respondent no.2 shall pay an amount of Rs.10,000/- per month from the date of the application till final disposal of the application filed before the Magistrate. It follows that this interim order will be subject to the final order passed by the Magistrate.

5 Petition stands disposed of accordingly.

(JUDGE)

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