

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL APPLICATION NO. 449 OF 2013

Ramdas Dagadu Gavade and others

.....Applicants

V/s.

The State of Maharashtra and others

....Respondents

Mr. Hemant Ghadigaonkar for Applicants

Mr. Dhananjay Kendre i/b Mr. Ganesh Gole for Respondent no. 2

Mrs. M. H . Mhatre APP for the State.

CORAM : V. L. ACHLIYA, J.

DATED : 8th APRIL 2015

PC :

By present application filed under section 482 of Code of Criminal Procedure, 1973, applicant has challenged the order dated 03/01/2013 passed by Additional Sessions Judge, Raigad-Alibag in Criminal Appeal No. 156 of 2011, whereby learned Additional Sessions Judge has allowed the application moved by respondent no. 2 (Original applicant in Criminal Miscellaneous Application No. 382 of 2011) filed under provisions of Domestic Violence Act, 2005 seeking restraint order as against the petitioner from dispossessing her from the flat till the disposal of the main application.

2) In nutshell, it is the contention of the applicant that application filed by the respondent no. 2 seeking prohibitory order against the petitioner was rejected by the trial Court after hearing the parties and recording reasons in detail. However, without any justifiable reason the appellate Court has set

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aside the order and allowed the application filed by respondent no. 2, which according to him is not sustainable in law.

3) Learned counsel for the applicant submits that during the pendency of the present proceeding, matter is referred for settlement through the process of mediation. While the proceeding was pending before the mediator the respondent no. 2 has got decided the proceeding Ex-party against the petitioner, which is now challenged by filing appeal. Learned counsel further submits that this conduct of respondent no. 2 make the present proceeding infructuous which needs to be taken into consideration.

4) Having regard to the fact that the order passed by the Appellate Authority which is impugned in the present application, being an interim order and same is merged in the final order passed in the matter, no cause survives to decide the present application on merits. Petitioner may raise appropriate ground in that behalf in the proceeding filed against the final order passed in the proceeding by the learned Magistrate.

ORDER

(i) Application is dismissed.

(V. L. ACHLIYA, J.)