

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL WRIT PETITION NO. 2410 OF 2015

Latha Sunil Nair

.....Petitioner

V/s.

Sunil Bhaskaran nair and others

....Respondents

Ms. Seeka Sarnaik a/w M. S. Shaheen Khan for Petitioner

Mr. F. Sayeed i/b Maniklal Kher Ambalal and Co.

for Respondent nos. 1 to 4

Ms. A. A. Mane APP for the State

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : AUGUST 19, 2015.

PC :

Heard respective Counsel.

- 2) Rule. Rule made returnable forthwith with the consent of the parties.
- 3) Being aggrieved by the order dated 09/05/2015, passed by Additional Sessions Judge, Greater Bombay in Anticipatory Bail Application No. 95 of 2015, petitioner who happens to be original complainant has approached this Court seeking relief of quashing and setting aside the impugned order. Present petitioner filed a report under section 154 of Code of Criminal Procedure, 1973 on 15/02/2015, pursuant to which, respondents herein are being prosecuted for offence punishable under sections 498 (A) r/w section 34 of

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Indian Penal Code.

4) Respondents herein apprehended arrest and had hence approached Court of Sessions at Goregaon, seeking pre-arrest bail under section 438 of Code of Criminal Procedure, 1973. Learned Sessions Judge had made an endeavour to bring about an amicable settlement between the parties and hence, had referred the parties to mediation. Additional Sessions Judge, 10th Court, Shri. A. M. Garde was appointed as mediator. Several meetings were held between the mediator and spouses.

5) It is submitted across the bar that both the parties had appeared before the mediator on 06/04/2015 & 18/04/2015. On 09/05/2015, petitioner herein was called by the mediator. The date was fixed to 08/06/2015 on which date, respondent was to remain present before the mediator. On 08/06/2015, respondent no. 1 herein remained absent. Upon enquiry, petitioner had learnt that by an order dated 09/05/2015, application seeking pre-arrest bail was disposed of by learned Sessions Judge with a direction to the police inspector of Samta nagar Police Station to issue 72 hours notice to the applicants in the event of their arrest or in case of registration of offence on the basis of report lodged by present petitioner.

6) Learned counsel for the petitioner submits that in fact, mediation would have succeeded in the eventuality that application seeking pre-arrest bail was kept pending. The spouses had reached a stage where Advocate representing the petitioner was directed to draft consent terms to be further approved by the present respondents. This aspect of the matter is seriously disputed by learned counsel appearing for the respondents herein. Learned counsel for the petitioner further submits that it was in the course of pendency of the application seeking pre-arrest bail that effort was being made for bringing about an amicable settlement and only because application was abruptly disposed of without giving notice to the petitioner, it has caused serious prejudice to the petitioner and hence, she is seeking relief of quashing of the said impugned order.

7) Learned counsel for the respondents submits that said impugned order has not caused any prejudice to the petitioner in as much as proceedings are initiated by the present petitioner, wherein she is praying for divorce and has prayed for maintenance to their daughter. Mediation proceedings are pending before Family Court. At present, the contention of the learned counsel for the petitioner needs to be taken into consideration only for a limited purpose that

application seeking pre-arrest bail was disposed of without notice to the original complainant or the mediator and therefore, mediation proceedings have failed in the sense that present respondent has resiled from co-operating in the mediation proceedings. This aspect was never brought to the notice of learned Additional Sessions Judge, Greater Bombay.

8) Learned counsel for the petitioner, after arguing for sometime submits that she would not press for seeking relief of quashing and setting aside the order which is in the nature of a direction, however, she seeks liberty to file appropriate application before Additional Sessions Judge, Greater Bombay.

9) Petitioner is granted liberty to file an application seeking appropriate relief as advised.

10) Petition stands disposed of as not pressed.

(SMT. SADHANA S. JADHAV, J.)