

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1463 OF 2016

RAVIKANT PUNJARAM GADKARI AND OTHERS
VERSUS
REKHA RAVIKANT GADKARI AND ANR

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Advocate for Applicants : Shri Waghmare Praveen B.
Advocate for Respondents : Shri Garud V.B.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: June 28, 2016

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PER COURT:-

1. I have considered the strenuous submissions of Shri Waghmare and Shri Garud, learned Advocates for the respective sides. With their able assistance, I have gone through the petition paper book and considered the record available. I have also considered the reports cited upon by Shri Waghmare.

2. Considering the order that I intend to pass, I am not adverting to all the submissions of the learned Advocates.

3. On the one hand, the petitioner is armed with an order directing the respondent / wife to cohabit with him since his conjugal rights have been restored. On the other hand, the petitioner is facing PWDA No.126 of 2016 before the learned Judicial

Magistrate F.C., vide which the respondent is claiming maintenance under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (“the said Act”).

4. The petitioner husband had moved an application Exhibit 13 praying that the proceedings under the said Act were not tenable as the prayer for maintenance of respondent No.1 wife under Section 125 of the Criminal Procedure Code has already been rejected. By the impugned order dated 19.6.2015 and by the judgment of the revisional Court dated 15.2.2016, it is concluded that the proceedings under the said Act can be considered independently on their own merits.

5. I have considered the impugned orders. In my view, the learned Magistrate as well as the learned revisional Court have rightly concluded that the claim of the respondent / wife under the said Act can be considered on its own merits.

6. Shri Waghmare submits that if the learned Magistrate is to proceed with the said proceedings, all contentions of the petitioner as well as the issue as to who is an “aggrieved person” be kept open for the learned Magistrate to decide.

7. In the light of the above, this application is dismissed.

However, it be noted that the dismissal of this petition is only to the extent of the question posed by the petitioner in Exhibit 30 and as such, the learned Magistrate shall decide PWDA No.126 of 2015 on its own merits, considering the contentions of the litigating sides, which are kept open.

(RAVINDRA V. GHUGE, J.)

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