

(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1115 OF 2015

Kaniram s/o Hari Pawar,
Age: 55 years, Occu: Service,
R/o: Gaul Tanda, Tq. Kandhar,
At present Park Side Police Station,
Vikroli (West) Mumbai

..PETITIONER

VERSUS

1. The State of Maharashtra
2. Laxmibai w/o Kaniram Pawar,
Age: 44 years, Occu: Household,
R/o: Ramnaik Tanda, Tq. Kandhar,
Dist. Nanded
3. Vicy s/o Kaniram Pawar,
Age: 15 years, Occu: Education,
Under Guardian of his real mother
Respondent No. 2 above

..RESPONDENTS

Mr Rahul Awasarmol, Advocate holding for Mr R. I. Wakade, Advocate for petitioner;
Mr R. B. Bagul, Addl. Public Prosecutor for respondent No. 1;
Mr A. M. Gaikwad, Advocate for respondent Nos. 2 and 3

CORAM : N.W. SAMBRE, J.

DATE : 28th March, 2016

ORAL ORDER :

Heard.

2. By the impugned order dated 19th June, 2015, passed by Additional Sessions Judge, Kandhar, Criminal Revision No.10 of 2014 filed by the present petitioner came to be dismissed in default, in which the order dated 12th February, 2014, passed below Exh.26, by Judicial Magistrate First

(2)

Class, Kandhar, in M.C.A. No.119 of 2011, ordering DNA test, was impugned.

3. It is brought to my notice that the petitioner and his Counsel repeatedly remained absent before the learned Addl. Sessions Judge. However, in the interest of justice and by way of last chance, this Court is inclined to give an opportunity to the petitioner to appear before the learned Addl. Sessions Judge and to work out the matter. These considerations are upon an undertaking given by the learned Counsel appearing on behalf of the petitioner that the petitioner shall not seek any more adjournment, for whatsoever reason before the learned Addl. Sessions Judge and shall co-operate in expeditious disposal of the matter. The petitioner also undertakes to pay costs of Rs.5,000/-, to be deposited before the learned Addl. Sessions Judge, within a period of three weeks from today, to which respondents no.2 and 3 shall be entitled to.

4. In view thereof, the impugned order dated 19th June, 2015, passed by Additional Sessions Judge, Kandhar, dismissing Criminal Revision No.10 of 2014 in default, is hereby quashed and set aside.

Criminal Revision No.10 of 2014 stands restored on the file of learned Additional Sessions Judge, Kandhar.

(3)

The petitioner shall deposit costs of Rs.5,000/-, before the learned Addl. Sessions Judge, within a period of three weeks from today, which respondents no.2 and 3 are entitled to withdraw.

Criminal Writ Petition stands allowed in above terms.

(N.W. SAMBRE, J.)

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