

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

CRIMINAL WRIT PETITION NO. 1218 OF 2016

Ratnamala w/o Bandidhar Hambrde ...Petitioner

VERSUS

Sau. Smita w/o Kishor Hambarde
and others ...Respondents

.....
Shri V.D.Salunke, advocate for petitioner
.....

CORAM : N.W.SAMBRE, J.

DATED : 19th October, 2016

PER COURT :-

Heard learned counsel for the petitioner.

2. The Judicial Magistrate, First Class-2, Beed by order dated 2.3.2015 has dismissed in default Miscellaneous Criminal Application No. 182 of 2013, which was in the colour of matrimonial proceedings. The learned Sessions Judge-2, Beed by order, dated 24.5.2016 passed in Criminal

Appeal No. 46 of 2015, set aside the order passed by the learned Magistrate. As such present proceedings.

3. Shri V.D.Salunke, learned counsel for the petitioner strenuously urged that the learned Sessions Judge, by setting aside the order of dismissal of the complaint, which was pending before the Magistrate, failed to understand the sanctity/reasons as were considered to be basis for restoration of the order of dismissal, as the respondents herein were not diligent in pursuing their lawful remedy before the Magistrate.

4. The learned counsel then would urge that the order of dismissal which is set aside by the appellate Court is contrary to the scheme of Section 29 of the D.V. Act, as is clear from the considerations thereof reflected in the order. As such, according to him, the impugned order needs to be quashed and set aside.

5. Having considered the submissions, it is required to be noted that the learned Sessions Judge, while setting aside the order of dismissal passed by the Magistrate, has recorded cogent reasons. The learned Sessions Judge, in clear terms, has observed that but for one or two days the counsel for the complainant and the complainant were very much attending the proceedings.

6. In my opinion, the reasons recorded in the impugned order appear to be germane to the cause. No interference is called for in the extra ordinary jurisdiction of this Court. Petition fails.

7. Criminal Writ Petition stands dismissed accordingly.

(N.W.SAMBRE, J.)

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