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

CRIMINAL REVISION APPLICATION NO. 133 OF 2015

Shabana Begam wd/o Shaikh Rashid,
Age: 30 years, Occu: Household,
R/o: Fajalpur S. T. Colony, Aurangabad,
Tq. & Dist. Aurangabad

..APPLICANT

VERSUS

1. The State of Maharashtra,
Through Collector, Aurangabad
2. Sk. Rais s/o Sk. Usman,
Age: 50 years, Occu: Contractor,
R/o: Jahangir Colony, Harsool,
Tq. & Dist. Aurangabad
3. Sk. Nafis s/o Sk. Usman,
Age: 46 years, Occu: Business,
R/o: Sathe Nagar, Waluj,
Tq. Gangapur, Dist. Aurangabad
4. Sk. Anis @ Anwar s/o Sk. Usman,
Age: 41 years, Occu: Business,
R/o: Mullan Pura, Waluj,
Tq. Gangapur, Dist. Aurangabad
5. Sk. Saidabee wd./o Sk. Usman,
Age: 58 years, Occu: Household,
R/o: Mullan Pura, Waluj,
Tq. Gangapur, Dist. Aurangabad

..RESPONDENTS

Mr S. S. Mundhe, Advocate for applicant;
Mr D. V. Tele, Addl. Public Prosecutor for respondent No. 1;
Mr A. D. Kasliwal, Advocate for respondents No. 2 to 5

CORAM : N.W. SAMBRE, J.

DATE : 29th March, 2016

ORAL ORDER :

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The petitioner, wife of deceased Shaikh Rashid, had approached the learned Judicial Magistrate First Class, Aurangabad, by way of an application in view of provisions of sections 19, 20 and 22 of the Protection of Women from Domestic Violence Act, 2005 (for brevity, “the Act”) , which came to be allowed by the order dated 4th January, 2013, however, in Criminal Appeal No.22 of 2013 at the behest of the respondent, the same was upset by learned Additional Sessions Judge, Aurangabad, under order dated 4th September, 2014.

2. With the assistance of learned Counsel, I have perused the pleadings of the respective parties.

3. From paragraph 4 of the reply given by the respondents herein, it could be inferred that the petitioner was residing with them and it is only after death of her husband in 2009, she claimed to have parted with company of the respondents. From the said statement which is in the form of an admission it could be inferred that the petitioner was staying with the respondents.

4. Apart from above, after perusal of the entire observations made in the impugned order it appears that learned Additional Sessions Judge had lost sight of the object with which the special statute i.e. the Act was enacted by the legislature. Retrospective applicability of the Act and limitation is also an issue which is no longer *res – integra* since the same

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is already decided by catena of judgments by this court, among which are the cases of **Ritesh Ratilal Jain and others vs Sandhya w/o Ritesh Jain and another**, reported in **2013 Cri. L.J. 3909** and **Shaikh Ishaq Budhanbhai v. Shayeen Ishaq Shaikh and others**, reported in **2012 Cri. L.J. 4518**.

5. In view of above, in my opinion, it would be appropriate to quash and set aside the judgment rendered by learned Additional Sessions Judge, Aurangabad. Accordingly, the order dated 4th September, 2014 passed by learned Additional Sessions Judge, Aurangabad in Criminal Appeal No.22 of 2013 is quashed and set aside. The matter is remitted back to the learned Additional Sessions Judge, Aurangabad for consideration, afresh. Said appeal stands restored to its position as had been subsisting immediately before the impugned order was passed.

Parties hereto agree that they shall appear before learned Additional Sessions Judge, Aurangabad, on 11th April, 2016.

Learned Additional Sessions Judge, Aurangabad shall make every endeavour to decide the appeal within a period of eight weeks from the date of appearance of the parties.

It is made clear that this court has not considered the merits of the matter and the observations in this order are *prima facie* and shall not influence making of decision in aforesaid appeal by learned Additional

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Sessions Judge, Aurangabad, on merits.

Criminal Application stands partly allowed in above terms.

(N.W. SAMBRE, J.)

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