

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 45 OF 2016

SHRI. NITESH VITHAL NARVEKAR AND
ANR.,

... Petitioners

Versus

MRS. BABITA N. NARVEKAR.

... Respondent

Mr. Amay Arjun Phadte, Advocate for the Petitioners.

Mr. A. D. Bhobe and Ms. S. Bhobe, Advocate for the Respondent.

Coram:- C. V. BHADANG, J.

Date:- 6th April, 2016

ORAL ORDER

By this Petition, the Petitioners are challenging the Order dated 15.03.2016 passed by the learned Judicial Magistrate First Class at Bicholim, in Criminal Case no. 9/DVA/2015/B by which the learned Magistrate has ordered that the matter shall be referred for Mediation after deciding interim application filed by the Respondent.

2. The brief facts are that the Respondent, who is the wife of the Petitioner no. 1, has filed proceedings under the Domestic Violence Act (Act, for short), for various reliefs which are pending before the learned Magistrate. It appears that the Respondent had sought certain interim reliefs by filing application dated 18.02.2016. The Petitioners contended before the Magistrate that the matter be referred for Mediation before the application for interim relief is taken up for consideration. The learned Magistrate by the impugned

order has found that the matter can be referred for Mediation after deciding the application for interim reliefs.

3. The learned Counsel for the Petitioners places reliance on the decision of the Hon'ble Supreme Court in the case of K. Srinivas Rao vs. D. A. Deepa passed in Civil Appeal no. 1794 of 2013 particularly Paras 32 and 36 of the said Judgment in order to submit that in cases of Matrimonial disputes, the Courts will have to make an endeavour for reconciliation and to encourage amicable settlement. He, therefore, submits that the learned Magistrate ought to have referred the matter for Mediation even before taking up the application for interim relief.

4. Learned Counsel for the Respondent points out to Paras 36 and 38 of the reply filed by the Petitioners. The learned Counsel further points out that in Para 38, the Petitioners have specifically contended that the Respondent is unemployed and she is bankrupt having no money. It is submitted that the minor child which was then aged eleven months, is with the Petitioners. The learned Counsel submits that the learned Magistrate has rightly found that the matter can be referred for Mediation after deciding the application for interim relief.

5. I have considered the submissions made and perused the impugned Order. There cannot be in any manner of dispute that in

the matters of matrimonial disputes, the Courts will have to encourage and try for amicable settlement between the parties. The impugned Order would show that the learned Magistrate has in fact held that the matter would be referred for Mediation. The only issue is whether it has to be, referred, before the application for interim relief is taken up. Having regard to the submissions made on behalf of the Respondent, on the basis of the averments in the reply, I do not find that any exception can be taken to the impugned Order directing that the matter shall be referred for Mediation after taking up the application for interim relief.

6. The parties pray for a direction for expeditious disposal of the interim application.

7. In such circumstances, the Petition is dismissed.

8. The learned Magistrate shall decide the application for interim relief within a period of two months from the date of receipt of this Order.

9. All the rival contentions of the parties are expressly left open.

C. V. BHADANG, J.

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