

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL WRIT PETITION NO. 845 OF 2016

Ramendranath N. Sarkar and anotherPetitioners

V/s.

Moonmoon Ramit Sarkar and anotherRespondents

Mr. R. R. Salvi counsel i/b Robin Thomas Advocate for Petitioner.

Ms. Mallika Ingale Advocate for Respondent no. 1.

Mrs. A. A. Mane APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : JUNE 21, 2016.

PC :

Heard.

- 2) Rule. Rule made returnable forthwith with the consent of the parties.
- 3) Petitioners herein are Respondents in C.C. No. 23/DV/2016 pending before Additional Chief Metropolitan Magistrate, 24th Court at Borivali, Mumbai. Petitioners are parents of husband of the complainant i.e. they are in-laws of the complainant. Pursuant to the notice issued by the learned Magistrate, Petitioners had appeared before the Court. It appears that Petitioners are senior citizens aged about 75 years and 71 years respectively. They filed affidavit-in-reply before learned Magistrate. By way of present

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petition, Petitioners are seeking relief of quashing of the complaint filed by the Respondent. Learned Magistrate is seized with the matter. It is admitted that after the death of their son they had permitted the Respondent to stay with them. Respondent has alleged in the complaint that husband of the complainant had expired on 30/10/2015. It is also contended in the complaint that after the demise of their son, Petitioners wanted the complainant to leave the house and stay with her parents or in the alternative, she should accompany them to Kolkata.

4) Learned counsel for the Petitioner has submitted that after the demise of her husband, complainant has received an insurance of Rs. 22 lacs from the company where he was working. It is also admitted by the learned counsel for the Respondent that the Petitioners have no other surviving legal heirs.

5) In view of the fact that learned Magistrate is seized with the matter, this Court is not inclined to quash the complaint simplicitor as there is no order passed by the Magistrate and learned Magistrate has been given no opportunity to decide the matter on merits. Hence, following order.

(i) Learned Magistrate shall consider the affidavit-in-reply filed by the present Petitioners and decide the matter on the basis of affidavit-in-reply

filed by the Respondents within 4 weeks from the date of receipt of this order.

(ii) Learned Magistrate shall give a fair opportunity to both the parties to substantiate their respective contentions.

(iii) Learned Magistrate shall consider protection orders to be passed on its own merits and no interim orders as far as compensation or maintenance is concerned may be passed for another 4 weeks.

(iv) Rule made absolute in the above terms.

(v) Writ petition stands disposed of.

(SMT. SADHANA S. JADHAV, J.)