

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 4222 OF 2015

Harshad Dilip Joshi	...	Petitioner
vs.		
Mrs. Maithili Harshad Joshi & Anr.	...	Respondents

Mr.Mandar Limaye,Advocate for the petitioner.
Ms. Prabha Badadare i/b. Mr. P.R. Arjunwadkar for respondent No.1.
Mr. V.B.Konde-Deshmukh, APP for the State.

CORAM: SMT. SADHANA S.JADHAV, J.
DATE : 7th June, 2016.

P.C.

Heard respective counsel. Rule. Rule made returnable
forthwith with consent of the parties.

2. The petitioner herein happens to be the respondent in N.A. No.2506 of 2010, which is initiated at the behest of the respondent No.1. The proceedings are initiated under the provisions of the Protection of Women from Domestic Violence Act, 2005. The learned Magistrate was in the process of recording the substantive evidence of the complainant and the witnesses. It appears that the trial was expedited by this Court.

3. The complainant herein was being cross-examined by the Advocate representing the petitioner. In the course of cross-examination, the Advocate for the present respondent had asked the witnesses several questions. It is a matter of record that the cross-examination had rather become lengthy. It is a matrimonial dispute. It appears that the respondent wanted to bring every fact on record. The learned Magistrate i.e. the Presiding Officer was conscious of the fact that he is to abide by the orders of the High Court by which the trial was expedited.

4. It is a case of the present petitioner that certain questions were objected by the petitioner. The learned Magistrate was not willing to take the objections on record since the trial was expedited. According to the learned counsel for the petitioner, the Advocate for the respondent had posed several irrelevant questions. The learned Advocate representing the petitioner submits that he had requested the Magistrate to take the questions on record. However, since the questions were disallowed, he was not inclined to take them on record.

5. It is pertinent to note that the learned counsel for the petitioner

has not placed on record any question which, according to him, would be irrelevant to the facts of the case. It is further submitted that the learned counsel for the petitioner had also filed a Pursis which is at Exhibit 26. The Pursis below Exhibit 26 is not placed on record and does not form part of the compilation of the present Writ Petition. A question was asked as to whether the witnesses had anything to say about the recitals in the Pursis and the answer was that the alleged fact in the Pursis has not taken place in his presence. Since the very recitals in the Pursis are not placed on record, it would be difficult for this Court to ascertain as to whether the questions put by the Advocate were irrelevant or not and what was the contention of the Pursis.

6. Be that as it may, it is a matter of record that trial is expedited. Both the parties are expected to co-operate with the learned Court to allow him to comply with the order of the High Court of expediting the trial. Suffice it to say that the trial shall revive. The questions put by the respondent to the petitioner herein may be taken on record, even if they are disallowed. The objections raised by the Advocate for the petitioner shall also be taken on record provided that the learned Advocate files a Pursis by drafting the questions or reproducing the questions put to the witnesses and

his objections as far as irrelevancy is concerned. The learned Magistrate shall take the objection on record and decide the relevancy, validity and the legality of the said objections at the end of the trial i.e. at the time of delivering the judgment.

7. With these directions, the Petition stand disposed of. Rule is discharged.

8. Needless to say that the interim relief granted in favour of the petitioner in terms of prayer clause © vide order dated 23.10.2015 stands vacated.

(SMT.SADHANA S.JADHAV, J.)