

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application [APL] No.694 of 2015

(Amol Gajananrao Kshirsagar

vs.

Sau. Saroj w/o Amol Kshirsagar)

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Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

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Court's or Judge's Orders

Shri S.A. Chaudhari, Advocate for the Applicant.

Shri N.B. Kalwaghe, Advocate for the Non-Applicant.

CORAM : S.B. SHUKRE, J.

DATE : 10th AUGUST, 2016.

Heard.

The learned Counsel for the non-applicant has invited my attention to the judgment rendered by the learned Single Judge of this Court in the case of **Abhijit Bhikaseth Auti vs. State of Maharashtra and another**, reported in **2009 ALL MR (Cri) 1005** in order to support his argument that against the impugned order, an appeal under Section 29 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as 'the Act' for short) would lie. Therefore, he further submits that an appropriate remedy for redressal of the grievance of the applicant would be by way of an appeal under Section 29 of the Act.

The learned Counsel for the applicant submits that appeal under Section 29 of the Act would lie as per the said judgment against the final order passed under the provisions of the Act. He submits that if the impugned order is considered as finally deciding the rights of the

parties, he would concede to the proposition of law submitted by the learned Counsel for the non-applicant.

I think, considering the nature of the impugned order, the learned Counsel for the non-applicant as well as the learned Counsel for the applicant must be said to be right, when they submit that the effect of the impugned order has to be seen in order to determine whether or not it is a final order. Having considered so, I am of the view that the order challenged in this application has the effect of finally deciding the rights of the parties and, therefore, it is a final order and as such an appeal under Section 29 of the Act would lie.

At this stage, the learned Counsel for the applicant seeks leave of the Court to withdraw the application with liberty to file an appeal under Section 29 of the Act before the concerned Sessions Court.

Having regard to the law, as discussed earlier, and also having formed an opinion that the appeal is maintainable under Section 29 of the Act against the order impugned in this application, leave to withdraw the application with liberty to file an appeal under Section 29 of the Act is granted.

The application is disposed of as withdrawn.

JUDGE

**sdw*

C E R T I F I C A T E

I certify that this order uploaded is a true and correct copy of the original signed order.

Uploaded by: S.D. Waghmare
P.A. to the Hon'ble Judge.

Uploaded on : 11/08/2016