

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD.

CRIMINAL WRIT PETITION NO.413 OF 2017

1. Deepa Vishal Ghatule,
age 32 years, occu. Temporary teacher,
2. Shradha Vinay Ghatule,
age 28 years, Occu. Temporary teacher,
Both r/o Golait Nagar,
Manwat,Tq. Manwat,
Dist. Parbhani. **... PETITIONERS.**

VERSUS

Pushpa Madhukar Ghatule,
age 56 years, Occu. Household.
r/o Golait Nagar, Manwat,
Tq. Manwat, Dist. Parbhani. **... RESPONDENT.**

...
Advocate for Petitioners : Mr.Patil Avinash N.
Advocate for Respondent : Mr.S.M. Kshirsagar h/f Mr.Kalani
Pravin N.
...

CORAM : V.L. ACHLIYA, J.

Dated: JULY 27, 2017.

ORAL JUDGMENT:

Rule. Rule, returnable forthwith. By consent, heard finally at the stage of admission.

2. In view of the limited challenge raised in the petition,

it is not necessary to discuss the facts of the case in detail. The respondents have filed proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005 as against petitioners as well as respondent Nos.2 and 3. Since reply was not filed on the due date, the trial Court decided to proceed further with the matter without reply. On 23.12.2016, the petitioners moved an application seeking permission to file reply by assigning reason as to why the reply could not be filed on 25.11.2016. However, the learned Judge pleased to reject the application by observing that the reason assigned is not sufficient to entertain the request. Being aggrieved, the petitioners have preferred this writ petition.

3. I have heard the learned Counsel for the petitioners and respondent No.1.

4. On due consideration of the submissions advanced in the light of cause assigned in the application dated 23.12.2016, I am of the view that the trial Court ought to have entertained the request. It is quite settled position in law that the provisions of the procedural law are always to

be interpreted liberally to subserve the ends of justice. If, the request of the petitioners for filing reply would have been entertained, no serious prejudice would have resulted to respondent No.1. Ultimately, the matter could have been decided on merits. While conducting the proceedings and interpreting the provisions of the procedural law, the courts are not expected to take hyper technical view in such matters. The request of petitioners could have been very well considered even subject to costs. It is pointed out that the issue of maintainability of proceeding is involved in the case. I am, therefore, inclined to allow the petition subject to costs of Rs.3000/-.

5. Writ Petition is allowed in terms of prayer clauses (B) and (C) subject to deposit of costs of Rs.3000/- by the petitioners in the trial Court. The petitioners are directed to appear before the trial Court on 14th August, 2017 and file reply. Deposit of costs shall be a condition precedent to entertain the reply.

6. Rule made absolute in the above terms.

(V.L. ACHLIYA, J.)