

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.3771 OF 2017

Purshottam Jagdish Kurdia

...Petitioner

Versus

Rekha Purshottam Kurdia & Ors.

...Respondents

.....

Mr. Mandar Limaye for the Petitioner.

Mr. Anand Kumar Singh i/b. Mr. Rakesh Agrawal for the
Respondent No.1

Mr. Vinod Chate, APP for the Respondent No.7-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 12th OCTOBER, 2017.

P.C.:-

Rule. Rule is made returnable forthwith. By consent of the parties, matter is heard finally.

2. The Petitioner herein was the Respondent in proceedings under the Protection of Women from Domestic Violence Act, 2005 filed by the Respondent No.1. He has challenged the order dated 15th September, 2017 whereby the learned Judge dismissed his application for producing documents annexed to the affidavit in evidence.

3. Heard Mr. Mandar Limaye, the learned counsel for the Petitioner, Mr. Anand Kumar Singh, the learned counsel for the Respondent No.1 and Mr. Vinod Chate, the learned APP for the Respondent No.7-State.

4. The records reveal that the Petitioner had filed his affidavit in evidence on 5th August, 2017. His further examination in chief was recorded on 16th August, 2017. It is not in dispute that examination -in-chief was not concluded on 16th August, 2017 and that the matter was adjourned to the next date for further examination-in-chief. It appears that on the next date both the learned counsels for respective parties had started arguing with each other by raising their voices and had failed to maintain the decorum of the Court, which necessitated the learned Judge to warn both the counsels. It appears that in this ruckus, parties to the proceedings as well as the learned Judge lost sight of the fact that the matter was posted for further examination-in-chief, as a result, instead of recording the evidence in chief the learned Judge as well as the parties proceeded with cross-examination of the Petitioner.

5. By application dated 15th September, 2017 the Petitioner

sought leave to produce the said documents, which were listed in the list of documents annexed to the affidavit. The learned Judge dismissed the said application mainly on the ground that said documents are not referred to in the affidavit-in-evidence. A perusal of the affidavit-in-evidence clearly indicates that the said documents enlisted in the list of documents have been referred to in the affidavit-in-evidence. Hence, the observations are not borne out of records.

6. In view of the above facts and circumstances, the impugned order cannot be sustained and is hereby quashed and set aside. Leave is granted to the Petitioner to tender in evidence all the documents enlisted in the list of the documents annexed to the affidavit in evidence. Needless to state that the Respondents will have an opportunity to cross examine the Petitioner on the said documents.

7 The Writ Petition stands disposed of accordingly.

8. The parties to act on an authenticated copy of this order.

(ANUJA PRABHUDESSAI, J.)