

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

**CRIMINAL APPLICATION NO. 285 OF 2017
IN
CRIMINAL WRIT PETITION NO. 1753 OF 2013**

Prabhakar Ramchandra Patil .. Applicant
(Org. Petitioner)

Vs.

Mrs. Sushila Prabhakar Patil & Anr. .. Respondents

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Mr. S S Redekar for the Applicant/Petitioner.

Vrishali R. Raje for the Respondent No. 1.

Mr. Rajesh Salvi APP for Respondent No. 2

CORAM : (SMT. BHARATI H. DANGRE, J.)

DATE : MARCH 7, 2018

P.C. :

1. The Criminal Application No. 285 of 2017 has been taken out by the Applicant praying for setting aside the order passed by this Court on 20th April 2017, and seeking restoration of Criminal Writ Petition No. 1753 of 2013. Writ Petition No. 1753 of 2013 filed by the Petitioner-husband was admitted by this Court on 20th November 2013, and interim order was granted in terms of prayer clause (c).

2. On 20th April 2017, this Court had issued direction to submit

the caste certificate of the petitioner so as to assist his son, who is pursuing his education and who intends to opt a professional career. On the said date of hearing it was informed by the learned Counsel for the Respondent that the Petitioner was not co-operating and has not yet furnished his caste certificate. The Petition came to be dismissed in default on the same day and the ad-interim relief earlier granted is vacated. The Petitioner seeks restoration of the Writ Petition which was dismissed on 20th April 2017.

When the matter is heard today it is informed by the learned Counsel for the Respondent-wife that the caste certificate of the father i.e. Petitioner has been supplied to her. However, the said caste certificate itself would not be sufficient so as to gain any advantage by the son for the purposes of obtaining validity certificate of the caste 'AGRI' recognized as 'Other Backward Classes' and some more documents prior to 1967 would be required to establish the claim.

3. The Learned Counsel for the Petitioner informs this Court that, his father has never obtained a caste certificate and therefore

he is not in a position to produce it however, on an enquiry with the Petitioner, as to what documents he had supplied along with the application which he had filed for obtaining caste certificate, he informs that, some documents of his father were produced including some school documents. The learned Counsel for the Petitioner agrees to submit all those documents which are in his possession, which he had tendered along with the application of the caste certificate and such documents would be handed over to the Respondent-wife within a period of one week so as to enable his son to take appropriate proceedings for validation of the claim of his caste.

4. In light of this statement and assurance, Writ Petition No. 1753 of 2013 is referred and heard on merits by consent of parties. Writ Petition No. 1753 of 2013 was to be filed by the Petitioner challenging the order in appeal passed by the Additional Sessions Judge by which the order passed by the trial Court in Miscellaneous Application No. 87 of 2009 dated 29th December 2011 was set aside. The parties were directed to appear before the trial Court on 28th January 2013 and in pursuant to the said order

the proceedings before the trial Court are in progress. It is informed by the Counsel for both the sides that the evidence in the said matter is closed and the matter is posted for judgment.

5. Though, the learned Counsel for the Petitioner initially would argue about the maintainability of the proceedings. In view of the assertion that wife was already staying away from matrimonial home, much prior to coming to effect of the DV Act latest judgments of the Hon'ble Supreme Court and the position of Law laid down by Hon'ble Apex Court in the case of **V.D. Bhanot Vs. Savita Bhanot reported in [(2012) 3 SCC 183]** subsequently followed in **Saraswathi Vs. Babu reported in [(2014) 3 SCC 712]** and subsequent decision in **Krishna Bhattacharjee Vs. Sarathi Choudhary & Ors reported in [(2016) 2 SCC 705]**, the Petitioner do not propose to press the said objection in regard to maintainability of said proceedings. In such circumstances, since the matter is at the final stage before the trial Court, the matter will be proceeded and the trial Court is directed to conclude the proceedings within a period of one month from date receipt of this order. However, in the meantime, the Petitioner should abide by

the undertakings submitted to this Court, which is recorded in the above paragraph.

6. Criminal Application No. 285 of 2017 stands disposed off.

(SMT. BHARATI H. DANGRE, J.)

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