

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

CRIMINAL WRIT PETITION NO.99 OF 2018

(Nilkanth Dattatraya Maval and others Vs. Sau. Vaishali Nilkanth Maval)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mrs. Meera P. Kshirsagar, Advocate for Petitioner.

CORAM: ROHIT B. DEO, J.

DATE: 09th MARCH, 2018.

The petitioners are assailing the order dated 22-12-2017 below Exhibit-11 in Domestic Violence Case 63/2017 passed by the learned Judicial Magistrate, First Class, Court 3, Mehkar, by and under which, application Exhibit-11 seeking dismissal of the complaint under Section 12 of Protection of Women from Domestic Violence Act, 2005 is rejected.

2. The petitioner 1 is the husband of respondent Sau. Vaishali. The petitioners 2 and 3 are elder brothers of the petitioner 1. In so far as the petitioner 1 is concerned, the challenge to the maintainability of the petition under Section 12 of the Protection of Women from Domestic

Violence Act, 2005 is predicated on the premise that the marital ties are severed by and under judgment and decree dated 30-03-2017 in Special Marriage Petition 6/2014. This Court was not inclined to entertain the said challenge, in view of the judgments of the Hon'ble Apex Court **Juveria Abdul Majid Patni v. Atif Iqbal Mansoori and another** reported in (2014) 10 SCC 736 and *Krishna Bhattacharjee v. Sarathi Choudhary and Another* reported in (2016) 2 SCC 705 and this court's judgment [Coram:Rohit B. Deo, J) in Criminal Writ Petition 1014 of 2017 (*Anita w/o Anand Tambe v/s Shri Anand s/o Eknath Tambe*). In this view of the matter, learned Counsel for the petitioner seeks unconditional leave to withdraw the petition, in so far as petitioner 1 husband is concerned.

3. In so far as petitioners 2 and 3 are concerned, the submission of the learned Counsel is that they are residing at Mehkar and Akola respectively and no case under the provision of Protection of Women from Domestic Violence Act, 2005 is made out, even *prima facie* as against petitioners 2 and 3. Learned Counsel would submit that

petitioners 2 and 3 be permitted to withdraw this petition and to invoke the inherent powers under Section 482 of the Criminal Procedure Code.

4. Submission is reasonable. The petitioner 1 is permitted to withdraw this petition unconditionally.

5. The petitioners 2 and 3 are permitted to withdraw the criminal writ petition with liberty to invoke the inherent powers of this Court under Section 482 of the Criminal Procedure Code.

6. With these directions, the petition is disposed of.

JUDGE

RKN