

Vidya Amin.

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

CRIMINAL REVISION APPLICATION NO. 93 OF 2018

Prakash Bhanji Jogadia & Ors.	...	Applicants
VS.		
Dipika Prakash Jogadia & Anr.	...	Respondents

Mr. Anand Dubey, Advocate for the applicants.
Ms. Sonali Batra, Advocate for respondent no. 1.
Mr. N.B. Patil, APP for respondent no. 2/State.

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: 26th March, 2019**

P.C. :

This Criminal Revision Application is directed against the order dated 10th January, 2018 passed by the learned Additional Sessions Judge & Special Judge, Greater Bombay setting aside the order dated 2nd May, 2017 passed by the learned Metropolitan Magistrate, 62nd Court, Dadar and thereby restoring Criminal Case No. 70/DV/2016 to the file of Metropolitan Magistrate, 62nd Court, Dadar, Mumbai.

2. The learned counsel for the applicant/husband has submitted that earlier Case No. 116/DV/2013 under Domestic Violence Act was filed and it was dismissed. This is the second case filed by the respondent/wife, however, it is hit by double jeopardy.

3. Perused the order dated 18th March, 2016 passed by the learned Metropolitan Magistrate, 62nd Court, Dadar, Mumbai in Case No. 116/DV/2013 and also the order dated 10th January, 2018 passed by the learned Additional Sessions Judge. The learned Additional Sessions Judge has rightly stated that the Metropolitan Magistrate Court earlier did not consider the merits of the matter but on technical ground, i.e., absence of the report from the Protection Officer in the matter, has dismissed the said Application under section 12 of the Protection of Women from Domestic Violence Act filed by the respondent/wife. I do not find any illegality in the order passed by the learned Additional Sessions Judge. Hence, no interference is called for. The Revision Application is dismissed with following directions:

- (i) The learned Metropolitan Magistrate, 62nd Court, Dadar, Mumbai is hereby directed to conclude the trial till 31st September, 2019;
- (ii) The parties to appear before the learned Magistrate on 3rd April, 2019 and cooperate the Court;
- (iii) The order of interim maintenance, if any, be followed.

(MRIDULA BHATKAR, J.)