

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 281 OF 2019
IN
CRIMINAL WRIT PETITION NO. 765 OF 2017

Manish Vinod Kumar ...Applicant

Versus

Bhavani Manish Kumar & Ors. ...Respondents

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Mr. B. Harikrishnan i/b. Mrs. C.S. Savithri for applicant.

Mrs. Anu. R. Khanna for respondent no. 1.

Mr. N.B. Patil, APP for State.

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CORAM : S. S. Shinde J.

DATED : 19th June, 2019

P.C.

1. This application is filed for recalling the order passed by this court (Coram: Mrs. Mridula Bhatkar, J.) dated 10th April 2019. Learned counsel appearing for the applicant submits that the applicant has filed criminal writ petition no. 1428 OF 2018 and same is pending before this Court wherein prayer is made for quashing the proceeding bearing No. 149/DVA/2016 pending before the JMFC, Thane. He submits that when the applicant has filed the petition for quashing the aforesaid proceeding pending before the JMFC, Thane, the question of seeking direction to the

Trial Court by the petitioner for expeditious disposal for the aforesaid proceeding pending before the JMFC would not arise. Learned counsel further invites attention of this Court to the pleadings and grounds taken in application and submits that the application may be allowed.

2. Advocate Mrs. Anu R. Khanna who appeared for the petitioner in Writ Petition No. 765 OF 2017 submits that, as a matter of fact it is only after receiving instructions from the petitioner a statement was made before this Court (Corma:- Mrs. Mridula Bhatkar, J.) on 10th April 2019, and said statement has been recorded in Para 3 of the order dated 10th April 2019.

3. Heard learned counsel appearing for applicant. Perused averments in the application and also order passed by this Court (Coram: Mrs. Mridula Bhatkar, J.) dated 10th April 2019. It appears that the statement of the advocate appearing for the petitioner i.e. applicant herein was recorded in Clause 3 of said order which reads as under:-

“3. The learned Counsel for the petitioner/husband submits that he is ready to pay Rs. 4,50,000/- to the wife on or before June, 2019. He prays that the trial in the main application u/s. 12 of the Protection of Women from Domestic Violence Act filed by

the wife is to be directed to be concluded finally. Thus he submits that this petition can be disposed of.”

4. It further appears that, on the basis of submissions made across the bar by the learned counsel for the parties and statement recorded in clause 3 of the order dated 10th April 2019 this court disposed of the petition giving direction to the petitioner to deposit Rs. 4,50,000/- on or before 1st June 2019 towards arrears of maintainance, and further directed the Trial Court to proceed with main application and decide it finally on or before 30.11.2019.

5. By any stretch of imagination it is not possible to accept the averments in the application and recall the aforesaid order. No case is made out for recalling the order. Hence application stands rejected.

[S.S. SHINDE, J.]