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

CRIMINAL WRIT PETITION NO.5869 OF 2019

Swarupa Anil Lodha

...Petitioner

Versus

State of Maharashtra and Anr.

...Respondents

Mr. K. D. Walanju, Appointed Advocate for the Petitioner.

Ms. P.P.Shinde, A.P.P for the Respondent No.1 - State.

CORAM : REVATI MOHITE DERE, J.

DATE : 28th NOVEMBER, 2019

P.C. :

1. Heard learned counsel for the parties.
2. By this petition, the petitioner has impugned the order dated 10th May, 2016, passed by the learned Judicial Magistrate First Class, Khadki, Pune, in R.C.C. No.564 of 2011, by which, the learned Magistrate was pleased to allow the adjournment application of the petitioner, subject to payment of costs of Rs.10,000/-.
3. Learned Counsel for the petitioner submits that the petitioner could not remain present on few dates as her parents were ill at Sangamner,

District – Ahmednagar and thereafter her father expired on 7th November, 2017. He submits that the petitioner was taking care of her father and as such had to regularly visit Sangamner, from Pune to look after her ill and old aged father. He submits that the petitioner was divorced by her husband on 11th February, 2003 and since then she is unemployed. He submits that the petitioner's son is suffering from 'Bipolar Mood Disorder' and was missing and that only recently i.e. yesterday, the petitioner's son was found.

4. Having regard to what is stated herein-above, the circumstances under which, the petitioner could not remain present on the dates given by the trial Court and had to seek multiple adjournments on account of the same, the impugned order dated 10th May, 2016, passed by the learned Judicial Magistrate First Class, Khadki, Pune, in R.C.C. No.564 of 2011, imposing costs of Rs.10,000/- is quashed and set aside.

5. The petitioner's son requires help, he being in custody. Also having regard to the petitioner's son's psychological condition, as he requires help and the petitioner is required to attend to him, the petitioner to remain present before the trial Court on 6th January, 2020.

6. Petition is allowed to the extent aforesaid and is accordingly disposed of.

7. At this stage, learned appointed counsel for the petitioner states that the during the pendency and filing of the aforesaid petition in this Court, the trial Court has imposed an additional costs of Rs.5,000/- on the petitioner. As the Petitioner was unable to bear the costs of litigation, Mr. Walanju was appointed by the High Court Legal Service Committee, Bombay, to espouse the cause of the Petitioner in the said matter. Learned Counsel requests that the said order imposing costs of Rs.5,000/- on the petitioner also be quashed.

8. This Court taking suo-motu notice of the said costs, quashes the same, in the peculiar facts of this case. The learned Magistrate ought to have taken into account that the petitioner was unable to engage an advocate and had accordingly produced a letter before him seeking an adjournment on the said ground. The learned Magistrate ought to have shown some sensitivity and should have granted an adjournment, considering that the aforesaid petition was to be heard by this Court.

9. Considering the same, the subsequent costs of Rs.5,000/-, imposed by the trial Court on 13th November, 2019, is also quashed and set aside.

10. Learned APP to communicate the aforesaid order to the learned Judicial Magistrate First Class, Khadki, Pune, tomorrow i.e. 29th November, 2019, at 11.00 a.m.

11. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.