

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

CRIMINAL WRIT PETITION 209 OF 2019

(Ataullah Khan s/o. Shafullah Khan..vs.. Shabana Parveen d/o Rasul Khan & anr)

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

Court's or Judge's orders.

Shri S.M. Vaishnav, counsel for petitioner.

CORAM: ROHIT B. DEO, J.

DATE: 10th JUNE, 2019.

Exception is taken to the refusal of the Judicial Magistrate First Class, Court 4, Amravati to entertain an application for dismissal of the complaint under the provisions of the Domestic Violence Act, 2005 (DV Act). The order of the learned Magistrate is confirmed in appeal.

2 The objection to the tenability of the proceeding is *inter alia* on the ground of non-existence of domestic relationship. The alternate contention is that assuming that there was a domestic relationship at some point in time, the gross and unexplained delay of six years in approaching the Court, after the accrual of the alleged cause of action is fatal.

3 Considering the nature of the objection and the fact that the trial Court has left open the said objection for decision after recording of evidence, I was not inclined to entertain the petition. At this stage, the learned counsel

Shri S.M. Vaishnav submits that the petitioner may be permitted to withdraw the petition and since the proceedings are of the year 2014, the learned Magistrate may be directed to expeditiously decide the same. The submission is reasonable.

4 The petitioner is permitted to withdraw this petition. The petition is disposed of.

5 The learned Magistrate is requested to finally dispose of Misc. Criminal Application 177 of 2014 as expeditiously as possible and in any event within 12 months from the date of this order.

6 Needless to state, that every contention raised in this petition is kept expressly open.

JUDGE