

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3380/2018

LIYAKAT ISAALI MULLA PETITIONER.

VERSUS

NIYAJABI ALIAS BADRUNISSA
LIYAKAT MULLA AND ORS. ... RESPONDENTS.

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Mr.A.R.Avachat, Advocate for the Petitioner.

Mr.A.R.Kapadnis, APP for State.

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CORAM : A. M. BADAR, J.

DATE : 14TH JANUARY 2020.

P.C.:

1. The only contention raised on behalf of respondent in proceedings u/s 12 of the 'Protection of Women from Domestic Violence Act, 2005' which were finally culminated before the learned trial Magistrate on 29.1.2018, which order

is confirmed in Appeal by the learned Additional Session Judge on 10.5.2018 is to the effect that no proper opportunity of adducing evidence is granted to the respondent.

2. Heard learned counsel for the petitioner/original respondent. Perused the impugned Judgment of the learned Appellate Court. It reflects that after missing few dates, respondents were present in the Court with their learned counsels till conclusion of trial of application u/s 12 of the 'Protection of Women from Domestic Violence Act, 2005'. Finding of fact recorded by the learned Appellate Court, can not be interfered in exercise of writ jurisdiction by this Court. It is not disputed that after missing some dates, respondents were appearing before learned trial Magistrate through their Advocates. It is also evident from the record that no application was thereafter made by them for directing the applicant to cross examine the respondents or their witnesses. This resulted in ignoring the evidence of respondents by the

learned Magistrate as those witnesses were not subjected to cross examination due to their absence before the learned Magistrate. No infirmity as such found in the impugned appellate judgment warranting interference in exercise of writ jurisdiction by this Court. The petition is, therefore, rejected.

(A. M. BADAR, J.)