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Sherla

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1413 OF 2020

Sourabh A. Yadav and ors. ...Petitioners
V/s.
Jaya S. Yadav and ors. ...Respondents.

Mr. Rushikesh G. Patil for the Petitioner.
Ms P.P. Shinde, APP for the Respondent - State.

CORAM : N.R. BORKAR, J.
DATE : FEBRUARY 18, 2021.

P.C. :

1. This petition takes an exception to the order dated 30.1.2020 passed by the learned Assistant Sessions Judge, Kolhapur below Exhibit-1 in Criminal Miscellaneous Application No.103 of 2019. By the impugned order, the learned Assistant Sessions Judge has rejected the application filed by the present petitioners for condonation of delay in filing an appeal against the order of learned Magistrate, Kolhapur dated 22.02.2019.

2. It appears that the respondent No.1 herein had filed an application under the provisions of Protection of Women from Domestic Violence Act, 2005 before the learned Magistrate. By order dated 22.02.2019, the learned Magistrate awarded the interim maintenance at the rate of Rs.4000/- per month to the respondent No.1. Against the said order, the present petitioners have preferred an appeal before the Sessions Court. As there was

delay in filing the appeal, application for condonation of delay was taken out. The learned Assistant Sessions Judge rejected the said application by the impugned order.

3. The learned counsel for the petitioners submits that the learned Magistrate had passed the interim order of maintenance without hearing the petitioners. It is submitted that the the delay was properly explained and it was not inordinate.

4. Admittedly, the appeal was filed against the interim order of maintenance. The main application is still pending before the learned Magistrate. In view of this, I am not inclined to entertain the present petition under the extraordinary writ jurisdiction and instead it would be appropriate to expedite the hearing of main application. In the result, the following order is passed.

1] Writ Petition is dismissed.

2] Hearing of Criminal Miscellaneous Application No.55 of 2017 pending on the file of learned Magistrate, Kolhapur is expedited and the concerned court shall decide the main application, on it's own merits, within a period of nine months from the date of receipt of this order.

[N.R.BORKAR, J.]