

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 621 OF 2021

Asif Faruk Kadawala	...Petitioner
Versus	
Sarah Asif Kadawala and Ors.	...Respondents

Mr. Jatin Sehgal a/w Ms. Shivanshi Dwivedi i/b Ms. Sapana Rachure for the Petitioner.

Mr. Ali Kashif Khan-Deshmukh for the Respondent No.1.

Mr. S.S.Hulke, APP for the Respondent No.8/State.

CORAM : REVATI MOHITE DERE, J.
DATE : 7th JULY, 2021
(Through Video Conferencing)

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the petitioner seeks a direction to the Trial Court to dispose of all pending applications in D.V. Case No. 6600028 of 2020, through video conferencing.
3. The petitioner has impugned the order dated 13th October, 2020 passed by the learned Metropolitan Magistrate, 66th Court, Andheri,

Mumbai, rejecting the petitioner's application seeking permission to hear the discharge application through video conferencing. Learned Counsel for the petitioner submits that having regard to the restrictions issued by the Government from time to time, it is not practically possible for the petitioner nor his Advocate to appear before the Court physically.

4. Learned Counsel for the petitioner states that presently the applications pending before the learned Magistrate are; the discharge application filed by the petitioner and Respondent Nos.2 to 7; an application under Section 91 of the Criminal Procedure Code; as well as applications filed by the Respondent No.1 seeking maintenance. He requests that all the said applications can be heard by the Trial Court through video conferencing, instead of insisting on the physical presence of either of the parties or their Advocates.

5. Learned Counsel for the Respondent No.1 states that the Respondent No.1 has no objection if all the applications are decided by the learned Magistrate through video conferencing. Learned Counsel for the Respondent No.1, however, seeks expeditious hearing of all the applications, including Respondent No.1's maintenance application which is pending in the Trial Court, since the initiation of D. V. proceeding.

6. On the earlier date i.e. vide order dated 16th October, 2020, this Court had called for a report from the learned Metropolitan Magistrate, 66th Court, Andheri, Mumbai, with respect to the video conferencing facility available in the said Court. Accordingly, the learned Metropolitan Magistrate submitted his report dated 19th October, 2020 alongwith the report of the server in-charge of the Andheri Court. In the said report, it is stated that since the vidyo software facility has connectivity issues and is not in use since May, 2020, google meet software is being used for video conferencing purpose, by sharing the e-mail and the link to connect with the parties. It thus, appears that video conferencing facilities are available. In fact, the in-charge, Chief Metropolitan Magistrate, Mumbai on 12th October, 2020 has issued a note setting out the nature of cases that need to be taken up expeditiously by the Magistrate Courts, for hearing. Amongst the cases mentioned in the said note, at Sr. No. 1, are Discharge Applications; and at Sr.No.3, cases under the Domestic Violence Act, i.e. maintenance application and any other miscellaneous applications. In the said note, all judicial officers have been asked to ensure utmost use of the facility of video conferencing.

7. Having regard the aforesaid and the fact that even the

Respondent No.1 has no objection if the Magistrate is directed to hear all the pending applications before him, the aforesaid petition is allowed on the following terms and conditions :

ORDER

- (i) The impugned order dated 13th October, 2020 passed below Exh.10 in C.C.No.28/DV/2020 is quashed and set aside.
- (ii) The learned Metropolitan Magistrate, 66th Court, Andheri to hear all pending applications filed in C.C.No.28/DV/2020 as expeditiously as possible and in any event, within four weeks from the date of receipt of this order.
- (iii) All the said applications to be heard through video conferencing.

8. The application is disposed of on the aforesaid terms and conditions.

9. It is made clear that this Court has not gone into the merits of any of the applications filed by either of the parties before the learned

Metropolitan Magistrate and as such, all the contentions of all the parties are kept open.

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

REVATI MOHITE DERE, J.