

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

**Writ Petition No.368 of 2019**

Ritu W/o Sankalpa MedhaDeepak Ashok Mhaske

Versus

Shri Sankalpa S/o Virendra Medha

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Office Notes, Memoranda of Coram,  
appearances, Court's orders or directions    Court's or Judge's orders  
and Registrar's order

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Shri Kabir Raj Jhamb, Advocate, holding for Shri Ayush Sharma,  
Advocate for Petitioner.

Shri Yogesh Vidya Prakash Nayyar, Advocate for Respondent.

**CORAM : AVINASH G. GHAROTE, J.**

**DATE : 9<sup>th</sup> SEPTEMBER, 2021**

1.     Heard Shri Jhamb, the learned counsel for the petitioner,  
and Shri Nayyar, the learned counsel for the respondent.

2.     This petition challenges the impugned order 10-1-2019 refusing to set aside the 'no cross' order dated 5.8.2014, as spelt out in the impugned order passed by the learned Family Court No.3, Nagpur. The learned counsel for the respondent by inviting my attention to the application at Exhibit 69 points out that in fact three orders were sought to be set aside viz. the order dated 5-8-2014 below Exhibit 22, the order dated 23-3-2015 below Exhibit 34 and the order dated 7-4-2017 below Exhibit 49, whereunder the witnesses for the original petitioner were examined and due to the absence of the counsel for cross examination, the 'no cross' order was passed. He further submits

that insofar as the witnesses examined at Exhibits 34 and 49 are concerned, they are no more and, therefore, the question of calling them for cross-examination now would not arise.

3. That leaves the order dated 5-8-2014 insofar as the witness examined below Exhibit 22 is concerned. The application for setting aside this order, has been filed on 5-2-2018, which is nearly after more than three years, when the matter was posted for judgment, which could not be pronounced due to stay granted by this Court. A perusal of the application indicates that except for making allegations against the erstwhile counsel, no other reason has been given. The time gap of more than three years in between the passing of the 'no cross' order on 5-8-2014 and the date of the application which is filed on 5-2-2018, has not been explained at all, which was necessary considering that in matters before the learned Family Court, the parties invariably attend the proceedings, which also has been done by the petitioner, and has not been denied by the learned counsel.

4. In view of above, I see no infirmity in the impugned order. The same is, therefore, maintained. Thus, the petition is without any merit and it stands dismissed.

JUDGE.