

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL INTERIM APPLICATION NO.613 OF 2022
IN
REVISION APPLICATION NO. 585 OF 2017**

Anand Dinkar Wagh ... Applicant

V/s.

Roma Anand Wagh & Anr. ... Respondents

Ms. C. Bocarro i/b. Mr. Vivek Sharma, Advocate for Applicant.

Mr. Ashok Goel, Advocate for Respondent No. 1.

CORAM : SMT. SADHANA S. JADHAV, J.

DATE : MARCH 9, 2022.

PC.

1. This pertains to Criminal Case No.57/DV/2011 pending before the 9th Additional Chief Metropolitan Magistrate, Bandra. Criminal Revision Application No.585 of 2017 was filed before this Court seeking expeditious trial. This Court by order dated 13th February 2020 has observed as follows :-

“It is a matter of record that the said application is pending adjudication for the last 9 years. Learned Magistrate shall decide the application without granting unwarranted adjournments to either of the parties. All the pending

applications to be decided within 3 months from the date of receipt of this order. Pendency of the distress warrant shall not be an impediment to decide the main application i.e. Criminal Case No.57/DV/2011 and the proceedings to be expedited and in any case, to be concluded by 30/8/2020.”

2. The learned counsel for the Respondent No.1 submits that although this Court had directed the learned Magistrate to decide pending applications within three months certain pending applications are not yet decided. However, this Court had also observed that the pendency of the application seeking distress warrant shall not be an impediment for continuance with the trial.

3. The learned counsel for the applicant also appears for the applicant before Bandra Court. It is submitted that on 8th March 2022 the substantive evidence of the complainant was recorded. The learned counsel was more than willing to continue with the cross-examination however, there was an apparent restraint by the respondent. It is submitted by consent that on 15th March 2022 the date is fixed for exhibiting all documents and cross-examination. At this stage, the learned counsel for the respondent vehemently submits that an application was filed on 30th August 2021 for issuance of arrest warrant against the applicant for the recovery of a sum of Rs.29,29,166/-. It appears that

there was no effort made by the respondent also to prosecute the said application. This Court had specifically observed, in particular facts of this case, that the application seeking distress warrant shall not be an impediment for proceeding with the trial. It is in view of this that the application deserves to be allowed in terms of prayer clause (a). In the eventuality that the Court observes that the respondent is not willing to subject herself to cross-examination, the learned Magistrate shall pass order to that effect as to no cross or that the cross has been refused by the respondent and proceed with the trial as D.V. application is pending for almost more than 11 years. In view of this, 9th Court, Bandra shall dispose of the application by 15th May 2022. This Court hopes that the parties will co-operate with the Court in abiding by the orders of this Court. Interim application stands disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)