

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12072 OF 2019

Smt.Smita Siddharth Banthia

....Petitioner

Versus

Siddharth Narendra Banthia

....Respondent

Ms.Aishwarya Kanthawala a/w. Ms.Diya Jayan for the petitioner.

Mr.Sachin H.Deokar for Respondent.

CORAM : S. G. DIGE, J.

DATE : 16th DECEMBER, 2022.

P.C. :

1. By consent Rule. Rule is made returnable forthwith and the matter is heard finally.
2. Heard learned counsel for the petitioner and learned counsel for the respondent.
3. The petitioner has challenged an order passed by Family Court Pune, below Exhibit 142 and 143 dated 08/07/2019 by the said impugned order. The learned Family Court has rejected the applications filed by petitioner for playing of the CD filed by petitioner (original Appellant) on record and reopening of the evidence and allowing petitioner to lead further oral evidence of the witness. Learned counsel for petitioner

submits that petition has been filed for annulment between petitioner and respondent before Family Court. The CD which the petitioner wants to play before the Family Court was already on record. But due to mistake of advocate on record the said CD was not played before the Family Court while recording evidence. To prove her case petitioner wish to play said CD before the Court. Accordingly, application was filed but it is rejected. Learned counsel further submits that the petitioner has filed offence under Section 376 of Indian Penal Code and under other various sections of IPC against the respondent in the year 2012. The chargesheet of the said offence is filed against the respondent before Sessions Court in the year 2019. Evidence of petitioner is closed on May, 2019. Thereafter, petitioner wants to produce the said copy of chargesheet before the Family Court. The petitioner also wants to produce the order passed by this Court, before the Family Court in support of her case. But applications are rejected. Hence requested to allow the petition.

4. Learned counsel for respondent strongly objected to allow the Writ petition on the ground that in the year 2012 issues are framed in the petition, which is pending before the Family Court, evidence is closed in the year 2019. During the 7 years petitioner did not take any steps to play the CD before the Family Court when it was already on record. Learned

counsel further submits that if this Court inclines to allow the petition. The respondent be given opportunity to cross-examine the witness as well as if required, opportunity be given to respondent to lead his evidence.

5. I have heard both learned counsels. Perused impugned order passed by the learned Family Court Judge. The petitioner wish to play the marriage CD which is already on record of learned Family Judge, the petitioner wants to produce the copy of chargesheet and copy of order of this Court dated 26/7/2022. In my view, no injustice is going to cause to the respondent if the petition is allowed. Moreover, if respondent is permitted to cross examine the witness, it would meet ends of justice. In view of the above, I pass following order:

ORDER

1. Writ Petition No.12072/2019 is allowed in terms of prayer clause a(i) and a(iii), i.e. reopening of evidence and playing marriage CD submitted by the petitioner of the Marriage Ceremony.
2. If respondent desires, he is also permitted to lead evidence.
3. Both parties can cross examine the witnesses.
4. Learned Family Judge is requested to expedite the pending petition as early as possible.
5. The Writ Petition stands disposed of.

(S. G. DIGE, J.)

