

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 4620 OF 2014**

Gorakhnath Chandrakant KadamPetitioner

Vs.

Gauri Gorakhnath Kadam & Anr.Respondents

Ms. Smita Gaidhani a/w Kedar Purav for the Petitioner.

Mr. S.S. Hulke for the Respondent No.1.

Mr. Ajay Patil APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 15th JULY, 2022.

P.C.:-

By the present Petition, the Petitioner husband has impugned Order dated 5th April, 2014 passed below Exh-5 in Criminal Miscellaneous Application No.536 of 2013 granting interim compensation and protection Order in favour of the Respondent No.1 under Section 23 of the Protection of Women from Domestic Violence Act, 2005 (for short, "*the said Act*"). The said Order has been upheld by the Appellate Court under Section 29 of the said Act by its Order dated 17th September, 2014.

2 As per record, the main Application i.e. Criminal Miscellaneous Application No.536 of 2013 filed under Section 12 of the said Act is still pending for final adjudication before the Trial Court.

3 By an Order dated 11th July, 2016, this Court had granted interim relief in terms of prayer (d) in favour of the Petitioner. Prayer clause (d) of the Petition reads as under-

“d) *pending the hearing and final disposal of this petition this Hon’ble Court be pleased to stay operation, implementation and execution of the impugned Order dated 05.04.2014 passed by the Learned Judicial Magistrate First Class Panvel, below Exhibit 5 in Miscellaneous application No.536/2014”*

4 Ms. Gaidhani, learned counsel for the Petitioner, on instructions submitted that, the said Application i.e. Criminal Miscellaneous Application No.536 of 2013 has been taken up for hearing by the Trial Court, however for want of presence of Respondent No.1 and/or her Advocate, hearing of the same could not be progressed. She submitted that, the hearing of the said Application is now scheduled on 21st July, 2022.

5 As noted earlier, the present Petition is directed against purely an interlocutory Order passed under Section 23 and the main Application filed under Section 12 of the said Act is still pending for final adjudication.

6 In view thereof, this Court thinks it appropriate to direct the Trial Court to expedite the hearing of the said Criminal Miscellaneous Application No.536 of 2013 and decide the same, in any case within a period of three months from the date of receipt of the present Order.

7 Till the said Criminal Miscellaneous Application No.536 of 2013 is decided by the Judicial Magistrate, First Class, Panvel, interim relief granted by this Court on 11th July, 2016 as reproduced hereinabove, shall remain in operation.

Petition is partly allowed in the aforesaid terms.

(A.S. GADKARI, J.)

SANJIV
SHARNAPPA
MASHALKAR

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