

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO. 770/2022

Mrugesh S/o Madhao Wasnik

..vs..

Shweta w/o Mrugesh Wasnik

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

Court's or Judge's orders

Mr. P. S. Tiwari, Advocate for applicant.

CORAM : VINAY JOSHI, J.

DATED : 22/06/2022.

Heard.

2. Having regard to the nature of relief claimed in this application, it is not necessary to hear other side.

3. The applicant/husband is facing action initiated by the non-applicant/wife under the provisions of the Protection of Women from Domestic Violence Act, 2005 ('D.V. Act'). Though the applicant has challenged the order dated 20.04.2022 passed by the Magistrate granting adjournment, the principal grievance is that the Magistrate has allowed the non-applicant/wife to prolong the proceeding without any reason. The learned counsel for the applicant took me through the copy of the Roznama as well as various orders passed by the Magistrate in the proceeding. It is brought to the notice that initially the case was fixed for evidence on 22.11.2018, latter on, the non-applicant/wife has amended the complaint and it was placed for evidence on 26.02.2020. It is the grievance

that the learned Magistrate is not proceeding with the matter, but granting adjournment to non-applicant/wife without any application or substantive reason.

4. The record indicates that the applicant/husband has filed application to the Magistrate requesting to dismiss the complaint for non-prosecution. Orders dated 25.11.2019, 29.09.2021 and 20.04.2022 indicate that though the Magistrate was reminded to expedite the proceeding, still adjournments were liberally granted. It is evident from the various orders that for the period more than two years, the non-applicant wife is not leading the evidence, but she was seeking adjournments which were granted. The last order dated 20.04.2022 indicates that the learned Magistrate as a last chance, has directed non-applicant/wife to lead evidence on next date, failing which the necessary orders would be passed. It is informed that thereafter, the matter was kept on 08.06.2022, however on that day, the non-applicant/wife instead of filing affidavit of evidence, has filed amendment application, on which the Magistrate, though it fit to once again adjourn the matter and now, it is kept on 12.07.2022.

5. Section 12(5) of the D.V. Act casts the obligation on the Magistrate to make every endeavour to dispose of the application within a period of 60 days

from the date of first hearing. The record itself speaks that in disregard to the statutory mandate, the Magistrate has adjourned the Matter for no reason. It is informed that the Magistrate has already passed the order of interim maintenance which is prevailing till date. It is submitted that the non-applicant/wife without prosecuting her main petition, is interested in deriving benefits of interim order.

6. Though it is prayed that the D.V. proceeding be dismissed for want of prosecution, however, the same course is not advisable. As on date, the non-applicant/wife's amendment application is on record which is to be responded. At this stage, only requirement is to issue certain directions to the Magistrate to expedite the proceeding. Certainly such direction would be in the interest of non-applicant/wife. The applicant/husband undertakes to file his reply to amendment application on the next date i.e. on 12.07.2022 itself.

7. In view of above, learned Magistrate is directed to hear and decide the amendment application within one week from filing of reply and the non-applicant/wife shall file evidence-affidavit within one week thereafter. The Magistrate shall not grant adjournment to either of the parties barring exceptional situation. In any case, the Magistrate shall dispose of the D. V. Proceeding within three months

from the date of filing of wife's evidence-affidavit.

8. Application stands disposed of in above terms.

(VINAY JOSHI, J.)

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