

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 130 OF 2022

Ashok Chindhu Sonawane

.. Petitioner

Versus

Latabai Ashok Sonawane

.. Respondent

Mr. N. N. Bhagwat, Advocate h/f Mr. C. K. Shinde, Advocate for the
Petitioner.

CORAM : KISHORE C. SANT, J.

DATED : 23rd FEBRUARY, 2023.

P. C. :-

. This is a petition filed by the original respondent – husband in Criminal Miscellaneous Application No. 338/2013 lodged by the wife seeking maintenance under Section 125 (1) of the Code of Criminal Procedure.

2. It appears that, the Criminal Miscellaneous Application is pending since the year 2013. Affidavit of evidence is also filed by the petitioner-husband on 01.09.2021. His cross-examination was completed on 30.09.2021. Thereafter, an application was moved by the present petitioner on 29.08.2019 for giving secondary evidence. The same came to be rejected for lack of specific reference to the documents. Thereafter, again application was filed on 16.09.2021 for

adjournment saying that the witness was to be examined. The Court granted adjournment as a last chance. Further, on 02.12.2021, the application was moved on the ground of illness of petitioner-husband and requested for time. The learned J.M.F.C., Bhusawal observed that, ample opportunities have been given to the husband, however, he could not bring the witness and rejected the application. Therefore, the petitioner is before this Court. One more application was given on 06.01.2022. The same again came to be rejected saying that the husband has not given the names and details of the witnesses which he wanted to examine. Thus, it is clear that, the petitioner is intentionally trying to prolong the trial and is not showing promptness.

3. Since the respondent has not appeared in spite of service, she could not be heard.

4. Since the petitioner wants to examine the witness only by way of showing indulgence, this Court allows the petition subject to cost of Rs. 10,000/- (Rs. Ten Thousand only) to be paid to the wife. Further condition is that, on the next date, the petitioner would keep his witnesses present for examination without praying for adjournment and hereafter also not seek any adjournment.

5. Considering the fact that, original petition is pending since the

year 2013, it would be in the interest of justice to request the learned Trial court to make an endeavour to decide the original proceeding i.e. Criminal Miscellaneous Application No. 338/2013 as early as possible and preferably within a period of three (03) months from today.

6. With this, the writ petition is allowed.

7. It is made clear that, the order is strictly subject to condition of deposit of Rs. 10,000/- (Rs. Ten Thousand only) within a period of two (02) weeks from today in the Court of learned J.M.F.C., Bhusawal where the criminal application is pending.

8. The criminal writ petition stands disposed off.

(KISHORE C. SANT, J.)

P.S.B.