

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

917 CRIMINAL WRIT PETITION NO.298 OF 2022

**RAJENDRA SURESH BHAVISKAR
VERSUS
SHITAL W/.O. RAJEDNRA BAVISKAR AND ANOTHER**

Mr.A.J. Patil, Advocate for the petitioner.

Mr.S.W. Deshmukh h/f. Mr. Vijay B. Patil, Advocate for respondent Nos.1 & 2.

**CORAM : KISHORE C. SANT, J.
DATED : 05.01.2023**

PC :-

01. Heard learned Advocates for both the parties. The petition is taken up for final disposal by consent of the parties.

02. This writ petition is filed by the husband challenging the order passed by the learned Judge, Family Court, Jalgaon, dated 25.01.2022, in petition No. E-380 of 2019 thereby rejecting application for setting aside 'no cross' order and 'closing of evidence' order. The petitioner-husband is also facing the proceedings under the Protection of Women from Domestic Violence Act. The wife had filed proceedings praying for various reliefs bearing Petition No. E-380 of 2019. The learned Family Court by order dated 06.01.2016 had passed 'no-cross' order. The evidence also came to be closed

on the same day by passing order on Exhibit-1. The petitioner, therefore, filed an application below Exh.41 in petition No. E-380 of 2019 for setting aside the orders. The learned Family Court Judge observed that even on earlier occasion 'no-cross' order was set aside. However, inspite of that the petitioner-husband has not taken effective steps and thereafter again this order was passed. It is case of the husband that on the date on which 'no-cross' order was passed, there was date fixed before the learned JMFC in another proceeding under DV Act, wherein the parties were directed to go for mediation. He thus submits that on that date because the matter was taken before the learned JMFC, he could not attend the matter before the learned Family Court.

03. Though it is seen that the petitioner is not taking proper steps and it appears that because of this fact, the petition before the Family Court is not being proceeded, however, looking to his right to lead evidence and to cross the witness of the respondent, this Court feels that one more opportunity be given to him. It also needs to be considered that the amount of maintenance is being regularly paid to the respondent as amount is being deducted from the salary of the petitioner and thus no prejudice would be caused to the wife

if she is compensated with reasonable costs. Hence, following order :-

- i) Criminal Writ Petition is allowed, subject to costs of Rs.20,000/- (Rupees Twenty Thousand) to be paid to the respondent-wife before the Family Court within period of two weeks from today.
- ii) The impugned order dated 25.01.2021 is set aside. Resultantly, the 'no cross' order dated 06.01.2022 passed by the learned Judge, Family Court, on application below Exh.16 and 'evidence closed' order of the same date at Exh.1 in Petition No. E-380 of 2019 are set aside.
- iii) It is made clear that the parties shall not pray for unnecessary adjournments in the proceeding and the learned Family Court Judge is requested to decide the proceeding as early as possible, preferably within a period of six months from today.
- iv) The Criminal Writ Petition is accordingly disposed off.

[KISHORE C. SANT, J.]