



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

CRIMINAL WRIT PETITION NO. 418 OF 2023

ASARAM BALAJI KHILLARE
VERSUS
SHANTABAI ASARAM KHILLARE

Ms. P. P. Wangikar, Advocate h/f Mr. R. V. Gore, Advocate for the
petitioner

Mr. A. S. Shejwal, Advocate for the respondent

CORAM : R. M. JOSHI, J.

DATE : 15th DECEMBER, 2023

P.C. :-

1. This petition takes exception to the order dated 21st January, 2023 passed below Exhibit 61 of closing evidence of respondent before the Family Court in proceeding bearing No. Petition No. E-273/2017 passed by learned Principal Judge, Family Court, Aurangabad.

2. Learned counsel for the petitioner, on instructions, makes statement that the petitioner shall ensure that his witness shall remain present before the Family Court on 2nd January, 2024 for examination. On instructions, she further makes statement that it is the responsibility of petitioner to secure his presence and for that purpose the Court machinery would not be required to be used. It is her submission that in the interest of justice, the order impugned be set aside and permission be granted to examine the sole remaining witness now sought to be

examined by the petitioner.

3. Though learned counsel for the respondent opposed the petition, however, he submits that if this Court is inclined to consider request of the learned counsel for the petitioner then appropriate order be passed to ensure that proceedings are not further delayed.

4. The petitioner is seeking examination of one witness which according to the petitioner is relevant for the decision of the issue pending before the Family Court. In view of the undertaking submitted by the learned counsel for the petitioner to ensure presence of the witness on 2nd January, 2024, and in the interest of justice, this Court finds it appropriate to give one more opportunity to the petitioner to substantiate his case. Hence, petition is disposed of in following terms.

1. Impugned order set aside.
2. Family Court to permit petitioner to examine the witness Sanjay Sonawane as his only remaining witness.
3. It will be responsibility of the petitioner to secure presence of the witness. No application for securing presence of the witness shall be entertained by the Family Court.
4. For whatsoever reason the witness fails to remain present on that day before Family Court the evidence of petitioner shall be closed. The proceeding before the Family Court be decided in any event on or before 30th January, 2024.

(R. M. JOSHI, J.)

ssp