

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.624 OF 2023

ASHOK CHINDHU SONAWANE
VERSUS
LATABAI ASHOK SONAWANE

...

Advocate for Petitioner : Mr. Tushar Shinde h/f Mr. C.
K. Shinde

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CORAM : R.M. JOSHI, J

DATE : AUGUST 17, 2023

PER COURT :

1. This Petition takes exception to the order dated 24th March, 2023 by JMFC, Bhusaval below Exh. 79 in Criminal M.A. No. 306/2018 whereby Applicant therein has sought to lead additional evidence after arguments were over.

2. Respondent has filed application under Section 125 of Cr.P.C seeking maintenance from the Petitioner in proceeding being Criminal M.A. No. 306/2018. The said proceeding, however, came to be filed in the year 2013 and re-numbered in the year 2018. The Petitioner has disputed the relationship with the Respondent as his wife. Specific plea to that effect has been taken up before learned JMFC.

3. After conclusion of evidence in the year 2018 and four years thereafter when arguments are also over, application Exh. 79 came to be filed on 06.01.2023 wherein it is explained by the Respondent that she came to know about the evidence with regard to the loan application made by the Petitioner disclosing Respondent to be his wife. Learned JMFC allowed the said application.

4. Learned Counsel for the Petitioner submits that this is nothing but an attempt on the part of the Respondent to fill up the lacunas. It is his submissions that in the year 2013 on one or the other pretext the proceedings are delayed and after the four years of closing of the evidence, the Respondent cannot be allowed to led evidence. To support his submissions, he placed reliance on the judgment of this Court in case of Nayna Rajan Guhagarkar Vs. State of Maharashtra, 2021 DGLS(Bom.) 846.

5. There is not dispute about the fact that the Respondent has filed application under Section 125 of Cr.P.C claiming herself to be legally wedded wife of

the Petitioner herein. Apart from the fact that the right of the Respondent to get maintenance from the Petitioner is involved in this proceeding, in view of denial of marital relationship by present Petitioner, the issue now involves in the said proceedings regarding status of the Respondent as wife of the Petitioner. Needless to say that she deserves to be given sufficient opportunity to prove herself to be wife of the Petitioner because any failure would lead her to carry stigma about her marital status for rest of her life. As against this, it is always open for the Petitioner to cross-examine the witness or to lead evidence in rebuttal to substantiate his stand.

6. Having regard to these facts, if the impugned order is perused then learned JMFC seems to have applied its mind to the facts of the case appropriately. It is specifically held that the evidence came to the knowledge of the Respondent recently and for the just decision of the case, she should be allowed to lead such evidence. There would be no prejudice much less any irreparable loss is likely to be caused to the Petitioner if the evidence is allowed as he would

counter the same in accordance with law.

7. Having regard to the peculiar facts and circumstances of the case, this Court finds no perversity in the impugned order. However, considering the fact that proceeding before JMFC, Bhusawal bearing Criminal M.A. No. 338/2013 is pending since year 2013, learned JMFC to decide the said proceedings within period of three months from today. Petition stands disposed of in above terms.

(R.M. JOSHI, J.)

Malani