

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

943 CRIMINAL WRIT PETITION NO.1652 OF 2022

**SHOBHA W/O. JEEVAN SHELKE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr.U.B. Deshmukh, Advocate for the petitioner.
Mr.Y.G. Gujarati, APP for the respondent/State.
Mr.A.M. Gaikwad, Advocate for respondent No.2.

**CORAM : KISHORE C. SANT, J.
DATED : 02.02.2023**

PC :-

01. The petition is taken up for final disposal by consent of the parties. This petition is challenging the order dated 01.09.2022 passed by the learned Additional Sessions Judge, Biloli at Exh.1, thereby dismissing the petition whereby the petitioner had prayed for setting aside the order of dismissal in default. No fault can be found with the order dated 01.09.2022. Therefore, this Court has to consider the challenge to the order dated 17.12.2019 by which the appeal of the petitioner came to be dismissed in default. Without going into facts in detail, this is a case where the petitioner had filed petition under section 156(3) in the Court of JMFC, Dharmabad on 02.04.2015. The order was passed on 21.04.2015. Pursuant to the investigation the police filed "B" summary report and the same was accepted

by the learned JMFC by order dated 22.04.2016.

02. The petitioner, therefore, filed Criminal Revision Application No. 7 of 2016 in the Court of learned Additional Sessions Judge at Biloli. It appears from the Roznama produced by learned Advocate for respondent No.2 that since 04.09.2017 the revision was for hearing and since no effective steps were taken to argue the matter, it was ultimately dismissed in default. He further submits that in such circumstances, no fault can be found with the order passed by the learned Revisional Court and when there is no fault, this Court need not interfere with the order.

03. Considering that this is a case under the Atrocities Act and considering that the petitioner should be given one more opportunity to argue the revision, this Court feels that it would be desirable to remand the matter. However, at the same time, some costs needs to be imposed upon the petitioner. Hence, following order :-

ORDER

(i) The impugned order dated 17.12.2019 passed by the learned Additional Sessions Judge, Biloli in Criminal Revision No.7 of 2016 is quashed and set aside and the same is restored on the file of learned Additional Sessions Judge, Biloli, subject to

deposit of costs of Rs.10,000/- (Rupees Ten Thousand) in the Court of Additional Sessions Judge, Biloli to be paid to respondent No.2.

(ii) The parties shall not seek adjournment.

(iii) The learned Additional Sessions Judge is requested to dispose off the revision application within three months after the same is restored.

(iv) Learned Advocate for the petitioner to inform this order by producing certificate copy of this order within 15 days from today in the trial Court.

(v) The parties to appear before the learned Additional Sessions Judge, Biloli on 01.03.2023 for fixing the date of hearing.

(vi) The petition is disposed off with above directions.

[KISHORE C. SANT, J.]