

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1361 OF 2023

Umesh Sawant & Ors. .. Petitioners
Versus
The State of Maharashtra & Anr. .. Respondents

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Ms.Vidhya Iyengar with Ms.Shrutika Mestri for the
Petitioners.

Ms.Rimpal Trivedi with Ms.Harshida Bhanusali for the
Respondent No.2.

Mr.S.R.Agarkar, A.P.P. for the State/Respondent No.1.

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CORAM: BHARATI DANGRE, J.
DATED : 23rd OCTOBER, 2023

P.C:-

1. The present Petition is filed, being aggrieved by issuance of notice by the Metropolitan Magistrate, on an application filed by the wife under Sections 12, 17, 18, 19, 20, 22 and 23(2) of the Protection of Women from Domestic Violence Act, 2005, seeking several reliefs.

I have perused the application, supported by affidavit, particularly stating that whatever stated in the application is true and correct and she is reiterating and confirming each and every statement and averment made in the application. It is also specifically pleaded that if the reliefs as prayed for, are

not granted, she would suffer irreparable loss, harm, damage, injury and great hardship.

2. The learned counsel for the Petitioners, who have assailed the cognizance of the said application by issuing notice, would assertively submit that the application is nothing but an after thought, after the divorce proceedings are filed by the husband. She has also advanced her submissions pointing out the falsity of the accusations, but I do not think that it is possible for me to assess the truthfulness of the averments, as it is always open for the Respondents in the application to traverse the said pleadings, by filing an appropriate reply and by rendering appropriate evidence before the competent court and in this case, the Metropolitan Magistrate.

In the wake of the above, I do not think that mere issuance of notice is a ground for me to invoke and exercise the inherent powers of this Court, particularly when the veracity and truthfulness of the statement in the application, is the matter which would fall within the province of the concerned Magistrate.

In the wake of the above, the Writ Petition cannot be entertained and is dismissed.

(SMT. BHARATI DANGRE, J.)