

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 1470 OF 2023

Suchi Dhanesh Sharma

..Petitioner

Versus

State of Maharashtra & Anr.

..Respondents

Mr. Manoj Harit a/w. Mallika Kerketta i/b. Manoj Harit & Co. for
Petitioner.

Mr. N.B. Patil, APP for State/Respondent No.2.

Mr. Ashok M. Saraogi for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 24 JULY 2023

PC :

1. This petition is filed with following two main prayers:

- a. Pass a writ of certiorari or any other appropriate writ, order or direction to quash and set aside the order dated 08/02/2023 passed in Exh. 1 in C.C.No.334/DV/2019 currently pending before the 24th Court of the Additional Chief Metropolitan Magistrate, Borivali;
- b. Pass a writ of mandamus or procedendo or any other appropriate writ, order, or direction directing the 24th Court of the Additional Chief Metropolitan Magistrate, Borivali to decide the Application at Exh. 1 [for interim maintenance] in C.C.No.334/DV/2019.

2. Learned counsel for the Petitioner submits that the order dated 08/02/2023 passed on Exhibit-1 in C.C.No.334/DV/2019 before the 24th Court of the Additional Chief Metropolitan Magistrate, Borivali, is substantially complied with, therefore, he is not pressing the prayer clause (a). As far as, the prayer clause (b) is concerned, that prayer can be considered. He submitted that the next date before the learned Magistrate is 20/09/2023.

3. Considering the nature of interim relief sought for, before the trial Court, it would be appropriate if the matter is directed to be preponed and decided earlier. This request is reasonable. Therefore, I am inclined to consider this request favourably.

4. Learned counsel for the Petitioner also does not press certain comments he has made against the Magistrate. This statement is also recorded and accepted.

5. Learned counsel appearing for the Respondent No.2 submits that, contentions on merits of the matter and requirement of furnishing necessary documents be left open to be decided at the discretion of the learned Magistrate. He submitted that the

Petitioner has not complied with the order dated 08/02/2023.

6. Since the issue is pending before the learned Magistrate, this submission can be considered by the learned Magistrate.

7. Hence, the following order:

O R D E R

- i) The learned Additional Chief Metropolitan Magistrate, 24th Court, Borivali shall keep the hearing of the Interim Application in C.C.No.334/DV/2019 on an earlier date.
- ii) Both the parties shall appear before the trial Court on 04/08/2023. On that date, learned Magistrate shall fix an early date at the convenience of both the parties.
- iii) Once that date is fixed, the learned Magistrate shall make efforts to decide the interim application at the earliest; and in any case, within a period of two months from such date fixed by

convenience of both the parties.

iv) It is made clear that the learned Magistrate at his discretion can direct both the parties to produce their respective documents.

v) All the questions raised by both the parties on merits of the matter are specifically left open.

vi) With these directions, the petition is disposed of.

(SARANG V. KOTWAL, J.)