

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

CRIMINAL WRIT PETITION NO.3423 OF 2017

Mohan Purushottam Gujar
and others

.....Petitioners

Versus

Dipika Gopal Uplenchwar (Gujar)
and another

.... Respondents

Mr. S.C. Wakankar, Advocate for the Petitioners.

Mr. M.G. Patil, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 02nd AUGUST, 2023

P.C. :

1. The Petitioners were the original Respondent Nos.1 to 4 in Criminal Misc. Application No.2341/2013 pending before the Judicial Magistrate, First Class, Pune. Said proceedings were filed under the provisions of the Protection of Women From Domestic Violence Act, 2005 by the Respondent No.1 herein.

2. During conduct of the proceedings, the complainant's evidence was tendered in the form of her affidavit and then she was cross-examined. On 9.3.2017, the counsel for the present Petitioners refused to take further cross-examination. An application was made on behalf of the Petitioner No.1 for producing one document which was in the custody of the Petitioner No.1. Another prayer was made that the cross-examination be deferred till the next date. This application was rejected by the learned Magistrate on 9.3.2017. Learned Magistrate observed that the matter was pending before the Court since 2013. The counsel for the Petitioners (Respondents before the trial Court) wanted to show some unknown document which was not filed on record. The Petitioners had availed of sufficient opportunity to conduct the cross-examination of the complainant. Learned Judge further observed that for production of an unknown document, the adjournment was not proper and he rejected the application. This order was challenged before the Sessions Court at Pune vide Criminal Revision

Application No.151/2017. The Revision Application was dismissed. After that the Petitioners preferred the present Petition in this Court.

3. Learned counsel for the Petitioners submitted that during pendency of this Petition, the Petitioner Nos.1 & 2 have passed away. The application, which is the subject matter of this Petition, was preferred by the Petitioner No.1. Therefore, to that extent the relief claimed in the Petition has become infructuous. His only submission is that the rights of the Petitioner Nos.3 & 4 including the right to conduct further cross-examination be left open.

4. Considering this situation, it appears that the original proceedings are pending since 2013. It is an unnecessary long delay. Therefore, the proceedings need to be decided at the earliest. I do not see any reason to keep this Petition pending in this Court as the original application, which is the subject matter of the Petition, was preferred only on behalf of the Petitioner No.1 before the trial Court. Therefore, the Petitioner Nos.3 & 4 are not really concerned

with the impugned orders. However as Respondents they have a right to cross-examine the complainant provided it is not conducted only to delay the trial. Therefore, keeping their right open to that extent, the Petition is disposed of as learned counsel for the Petitioners does not press this Petition.

(SARANG V. KOTWAL, J.)

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