

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.3887 of 2022

Yogesh Ramdas Tambe	]	..	Petitioner
vs.			
Priyanka Yogesh Tambe & Anr.	]	..	Respondents

Mr.Dilip Shinde i/b Mukund Mane for the Petitioner.
Mr.S.R. Agarkar, APP for the State.

CORAM : BHARATI DANGRE, J

DATE : 25th April, 2023.

P.C.

1] The present Writ Petition is filed by the Petitioner-Husband for quashing of CC No.58/2019 filed by the Respondent-Wife under Section 18, 19, 20 and 22 of the Protection of Women from Domestic Violence Act, 2005 before the JMFC, Chiplun.

2] Heard the learned counsel for the Petitioner.
The Respondent-wife, despite service has failed to appear.

3] The learned counsel for the Petitioner would press into service a specific ground to the effect that on 11.02.2021, the Civil Judge Senior Division, Khed, has granted his Petition filed under Section 9 of the Hindu Marriage Act. His submission is that, since the Judgment specifically record that he is entitled for restitution of conjugal rights , the DV proceedings cannot be entertained.

4] The submission of the learned counsel is grossly erroneous, as the DV proceedings which were initiated by the wife in the year 2009, where she alleged harassment, mental and physical at the hands of the present Petitioner and on the application being filed before the Magistrate, do not get eclipsed by the decree of Restitution. The law will take its own course and merely because the restitution order is passed in favour of the Petitioner it cannot be said that the proceedings by the wife are not maintainable and are liable to be quashed and set aside.

5] In the wake of above, Writ Petition, being it is, without any merit and substance, do not deserve any consideration and hence it is dismissed.

[BHARATI DANGRE, J]