

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

CRIMINAL WRIT PETITION NO.3626 OF 2017

Ravindra Ramchandra Kamble & Anr. Petitioners

versus

Ushatai Ramchandra Kamble & Anr. Respondents

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- Mr. Nagesh Y. Chavan, Advocate for Petitioner.
- Mr. Arfan Sait, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 04th AUGUST, 2023

P.C. :

1. Heard Mr. Nagesh Chavan, learned counsel for the Petitioner.
2. None present for the Respondent No.1.
3. The Petitioners have challenged two orders. The first is the order dated 21/03/2016 passed by the Judicial Magistrate First Class, Jaysingpur, in PWDVA/24/2014. By that order, the Petitioners were directed to pay Rs.1,00,000/- each towards medical expenses of the Respondent No.1 herein within one

month from the date of the order. This order was challenged by the Petitioners in Criminal Appeal No.17 of 2016 before the learned Additional Sessions Judge, Jaisingpur. That Appeal was dismissed vide order dated 04/07/2017 and this is the second order which is challenged in this Petition.

4. For the sake of convenience, the Respondent No.1 is referred to as the complainant. She is mother of the Petitioners. She had filed a complaint under the provisions of Protection of Women from Domestic Violence Act, 2005 (D.V. Act), for various reliefs. One of the reliefs she was claiming was that, she had undergone a knee surgery on 02/03/2014 and she was claiming Rs.3,00,000/- as the medical expenses for the said surgery from the Petitioners and one more Respondent in that complaint. In the first round, the medical expenses were granted by way of interim relief. However that order was set aside by the Sessions Court on the ground that the documents were not produced by the complainant. After that, the complainant produced the necessary documents showing the medical expenses incurred by

her for her knee surgery. The learned Magistrate considered those documents and passed an interim order which is under challenge before this Court. Learned counsel for the Petitioners states that the main complaint is still pending before the Magistrate Court and there is no further progress in said proceedings.

5. This Petition is pending before this Court since the year 2017 challenging only the impugned order. It is really unacceptable that the proceedings in the Trial Court are needlessly kept pending for all these years since 2014. There was no stay granted in the Petition and therefore there was no reason as to why the proceedings should not have concluded by now. The complaint was filed in the year 2014 and it is still pending.

6. The complainant filed this complaint giving the history as to how she and her husband took pains in raising their children i.e. the Petitioners as their sons. The complaint specifies as to how the complainant and her husband saw to it that the

Petitioners were well educated and looked after. The complaint further mentions that at the time of filing of the complaint, none of the Petitioners was looking after the complainant. They were residing separately. The Magistrate's order mentions that the Petitioner No.1 was residing separately since 2011 and the Respondent No.2 started residing separately after his marriage since 2005. They were not looking after the complainant. The Paragraph No.7 of the complaint mentions that on 11/05/2014 both the Petitioners came to the house of the complainant. They abused her and assaulted her. They threatened her. The dispute apparently was because of the sale of ancestral properties. In this background, the complaint is filed.

7. Learned counsel for the Petitioners submitted that the complainant does not depend on the Petitioners. The complainant and her husband had sold their ancestral property and therefore the complainant has sufficient means to sustain herself. He further submitted that the impugned orders are passed in the second round of litigation, which was not permissible.

8. I have considered these submissions in the light of the observations made in the impugned orders. The learned Magistrate has referred to the allegations in the complaint. He has referred to the medical bills tendered by the complainant and has observed that those documents prima facie support the complainant's averments that she had incurred medical expenses towards the knee surgery to the tune of Rs.3,01,709/-. The Petitioner No.1 was getting monthly salary of Rs.26,579/- and the Petitioner No.2 was getting monthly salary of Rs.28,510/-.
9. Learned Magistrate observed that in the first round, exparte was passed; which was partly set aside, and therefore, the said order cannot be treated as an interim order passed on merits after hearing the parties. Therefore, he had authority to pass the order granting interim maintenance.
10. Both these Courts have not committed any error in entertaining the complainant's application for the interim relief. It is really unfortunate and sad that the mother has to adopt these proceedings for her sustenance and for her medical

expenses against her own sons. The beneficial legislation like Protection of Women from Domestic Violence Act, 2005, has to be liberally construed. In the present case, it is undisputed that the complainant had undergone knee surgery. She is an old lady and she had made a case of domestic violence as referred to hereinabove. Therefore, the Magistrate was justified in passing the impugned order. The main proceedings are still pending. They need to be decided expeditiously. In these circumstances I do not see any reason to interfere with the impugned orders. Consequently, the Petition is dismissed.

11. The Trial Court is directed to conclude the proceedings pending before it expeditiously and in any case within a period of six months from today. The learned Magistrate shall issue notice to both the parties immediately and shall decide the matter without granting unnecessary adjournments.

12. With these observations the Petition is disposed of.

(SARANG V. KOTWAL, J.)