

Arjun

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

WRIT PETITION NO.4091 OF 2018

Shri. Narayan Ramesh Yeshe & Ors. ...Petitioners

V/s.

Sau. Sarika Narayan Yeshe & Ors. ...Respondents

None for the Petitioners.

**CORAM : MADHAV J. JAMDAR, J.
DATED : AUGUST 25, 2023**

P.C.:

1. Today, the matter is listed before the Court under the caption for dismissal.

2. The present Writ Petition was placed before a learned Single Judge on 28th September 2018 and as none represented for the Petitioners, the same was directed to be placed before the regular Court in due course.

3. Thereafter, on 17th August 2023, the matter was placed before a learned Single Judge and as none was present for the Petitioners, following order was passed :

“1. This Petition is pending since 2018. It was listed on 28/09/2018. At that time, nobody was present for the Petitioner. After that, the matter was

not listed and no efforts whatsoever were taken by the learned counsel for the Petitioners to get the matter listed before the Court.

2. It appears that the Petitioners are not interested in prosecuting this Petition. Therefore, by way of last chance, place this matter on 24/08/2023 under the caption 'for dismissal'."

4. In the present Writ Petition challenge is to the legality and validity of the order dated 5th March 2016 passed by the learned J.M.F.C. Kalvan, District-Nashik in Criminal Miscellaneous Application No.92 of 2014 as well as the order dated 16th August 2018 passed by the learned District Judge-7 & Additional Sessions Judge, Nashik in Criminal Appeal No.76 pf 2016.

5. By the impugned order dated 5th March 2016, the Petitioner was directed to pay maintenance of Rs.3,500/- and Rs.2,500/- per month respectively to his wife and son. The Petitioner was further directed to pay Rs.2,000/- per month towards rent of the house. The said order was passed under the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as "**the D.V. Act**").

6. The said order was challenged by filing Criminal Appeal No.76 of 2016 in the Court of District Judge & Additional Sessions Judge, Nashik under Section 29 of the D.V. Act. The

said Appeal was dismissed by the learned District Judge-7 & Additional Sessions Judge, Nashik by order dated 16th August 2018.

7. Both the learned Courts have rejected the contention of the Petitioner that he is not of earning capacity. The perusal of the order of both the learned Courts show that the same are passed by considering the material on record.

8. Therefore, no interference by this Court under the jurisdiction under Article 226 and 227 of the Constitution of India is warranted.

9. Accordingly, the Writ Petition is dismissed, however, with no order as to costs.

[MADHAV J. JAMDAR, J.]