



IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT NAGPUR, NAGPUR.

...

**CRIMINAL WRIT PETITION NO. 617/2023**

Ashish Satyanarayan Kondamwar and another

.. Petitioner/s

**versus**

Sau.Sweeta @ Harshal A. Kondamwar

.. Respondent/s

.....  
Ms.S.P. Giratkar, Advocate for Petitioner/s

Mr.Y.A. Kullarwar, Adv. for Respondent  
.....

**CORAM:** ANIL L. PANSARE, J.

**DATED** : 5th October, 2023.

**PC:**

On the previous date i.e. 29.09.2023 the following order  
was passed:-

*“ Learned counsel for the respondent submits that the impugned order has been challenged by the petitioners before the Sessions Court in terms of Section 29 of the Protection of Women from Domestic Violence Act, 2005. The appeal has been filed on 5.9.2023. This fact has not been brought to the notice of this Court when the matter was listed on 11.09.2023.*

*Learned counsel for the petitioners submits that the impugned order has not been challenged before the Sessions Court.*

*The petitioners shall file copy of the appeal for further consideration.*

*The petitioners are put to notice that heavy costs will be imposed upon them, if the submissions made by the learned counsel for the respondent are found to be true and correct.*

*Stand over to 5.10.2023.”*

2. The petitioners, in compliance to the aforesaid order has placed on record copy of appeal bearing Criminal Appeal No.83/2023 which clearly indicates that the petitioners have in the said appeal challenged the order dated 30th November 2020 passed below Exh 5 in the proceedings. As against, in the present petition, the petitioners have challenged the order dated 7<sup>th</sup> August,2023 passed below Exh.24.

3. This Court directed the petitioners to file copy of appeal for the reason that the counsel for the respondent submitted that the impugned order has been challenged by the petitioners before the Sessions Court, in terms of Section 29 of the Act of 2005 and that the appeal was filed on 5<sup>th</sup> September 2023 and further that this fact was not brought to the notice of this Court when this petition was listed on 11<sup>th</sup> September 2023. Thus, it is obvious that the counsel for the respondent has made a misleading statement.

4. At this stage, the learned counsel for the respondent has tendered apology by saying that he has made the statement on the basis of instructions of his client.

5. If that be so, the respondent should state the basis on which such instructions were given to his counsel. The respondent is put to notice that costs will be saddled for making incorrect and misleading statement.

Put up on today i.e. 5.10.2023 itself, at the end of the Board.

[ANIL L. PANSARE, J.]

LATER ON:

6. Mr. M.Anilkumar, learned Counsel for the Respondent is present. He has filed a *pursis*. The same is taken on record and marked as Article "A" for the purpose of identification. The Respondent states

that he being a layman was not aware of the nature of the proceedings and has given instructions accordingly without confirming the facts. Since there was no ill-intention in making such a statement and the mistake is *bona fide*, he seeks apology for such a mistake.

7. Such apology, in normal circumstances, could be accepted, but the respondent has blamed the petitioners on previous date for suppressing the fact that the impugned order has been challenged by the petitioners before the Sessions Court in terms of Section 29 of the Protection of Women from Domestic violence Act, 2005. The respondent ought to be careful while making allegations whether he is a layman or otherwise. Having been so casual, let the respondent deposit costs of Rs. 2500/- (Rupees two thousand five hundred) to be paid to the petitioners within one week from today. Order accordingly.

8. The learned counsel for the petitioners, on instructions, seeks permission to withdraw the petition with liberty to approach the trial Court under Section 29 of the Protection of Women from Domestic Violence Act. Permission is granted.

9. The writ petition is disposed of as withdrawn, with liberty as prayed for.

[ANIL L. PANSARE, J.]

*sahare*