



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

948 CRIMINAL WRIT PETITION NO. 132 OF 2023

Shahin W/o. Sayyad Kalim

VERSUS

Sayyad Kalim S/o. Sayyad Ibrahim and others

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Advocate for the Petitioner : Mr. Amar V. Lavate

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 18th JANUARY, 2024.

PER COURT :-

1. By this petition, the petitioner wife has challenged the order dated 17.01.2023, passed by the learned Judicial Magistrate, First Class, Majalgaon, District Beed below Exh.95 in Misc. Criminal application No. 191 of 2015, under the provisions of Protection of Women from Domestic Violence Act, 2005.

2. Admittedly, the Misc. Criminal application No. 191 of 2015 was expedited by the order of this court, dated 19.4.2022. The petitioner moved an application for setting aside the order of closing of recording of her evidence, particularly recording of her cross examination and additional evidence. Her similar prayer was allowed by order dated 11.01.2023. The conditional order was passed and directions were given to conduct the case, but the petitioner remained absent on 11.01.2023, 12.01.2023 and 13.01.2023. Therefore, her evidence was closed by order dated 13.01.2023 and the matter was

fixed for arguments. Again she prayed for setting aside the impugned order on the ground that the doctor had advised her for bed rest on 13.01.2023 and therefore, she could not remain present for the said date. In support of her prayer, she also filed on record the prescription given by the doctor. The said application was rejected on the ground that the petitioner remained absent frequently and did not follow the directions of this Court for expeditious hearing of the case.

3. Learned advocate for the applicant submitted that the respondents are duly served, however, they remain absent. As far as respondent Nos. 4 and 5 are concerned, the report shows that they are not residing on the given address. An affidavit is filed by the petitioner that they are residing on the same address. An attempt was made to serve notices before the trial court, however, they do not remain present before the trial court also. This petition is take up for final hearing.

4. Heard the learned advocate for the petitioner. Perused the impugned order. Considering the right of the petitioner for maintenance, the petition deserves to be allowed in the interest of justice.

5. In view of above, the impugned order dated 17.01.2023, passed by the J.M.F.C. Majalgaon, district Beed, below Exh. 95 in

Misc. Criminal application No. 191 of 2015 is quashed and set aside. The application Exh.95 is allowed. The petitioner shall lead her evidence.

6. Considering the facts of the case, some modification is required and some additional directions are required to be given for concluding the Misc. Criminal application No. 191 of 2015. It shall be disposed of finally within eight months from today. However, the hearing of it shall not be conducted on day to day basis, as the same will cause hurdle in following the recent directions of the Hon'ble Supreme Court for disposal of other old cases within time frame.

7. The writ petition is allowed to the above extent and disposed of accordingly.

(SANJAY A. DESHMUKH, J.)

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