



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

918 CRIMINAL WRIT PETITION NO. 1654 OF 2024

ROSHANI SAURABH BIYANI

VERSUS

SAURABH JUGALKISHOR BIYANI

...

Mr. Abhijit Choudhari, Advocate for the Petitioner

CORAM : Y. G. KHOBRADE, J.

Dated : 17th October, 2024

PER COURT :-

1. Heard learned counsel for the petitioner at length.
2. By the present petitioner, the petitioner put forth prayer clause (a) as under:

"(a) That, the Order dated 16.08.2024, passed below Exhibit-88, in Criminal Misc. Application No.05/2022 by the Ld. Judicial Magistrate First Class, Umari, may kindly be quashed and set-aside and the objection filed at exhibit-88 may pleased be allow."

3. On perusal of the record it appears that on 16.08.2024, the learned Judicial Magistrate recorded evidence of DW-1 at Exh. 71. During the course of examination-in-chief, DW-1 produced electronic record in the form of pen-drive alongwith

necessary certificate under Section 65-B of the Evidence Act at Exh. 80. After the necessary clip was played, it has been exhibited at Exh.89. However, the present Petitioner filed an Application Exh. 88 and raised objection for exhibiting the Electronic record i.e. pen drive. The Petitioner contended that her right of privacy has been violated due to exhibition of 'Pen drive' containing recording of her personal talk.

4. The learned counsel appearing for the Petitioner canvassed in vehemence that the Petitioner was subjected to cruelty for non fulfillment of demand of dowry, hence, she lodged a report with the concerned police station. The Petitioner also initiated proceedings for maintenance under Section 125 of the Criminal Procedure Code. However, in the said proceeding, the Respondent produced electronic evidence i.e. "Pen Drive" containing personal talk. Therefore, if the Respondent produce any recording of talk between the wife and other person, it certainly amounts to violation of personal right to privacy.

5. In support of his submission, the learned counsel for the Petitioner relied on the judicial pronouncement of Madhya Pradesh High Court, Bench at Indore, dated 21.05.2015 in Writ Petition

No.7579 and 7484 of 2014) **Anurima a @ Abha Mehta Vs. Sunil Mehta s/o Chandmal**, wherein, it has been held that, the conversation was recorded without knowledge of the wife behind her back which is definitely an infringement of her right to privacy. Besides, it is violative of Articles 11 and 21 of the Constitution of India. However, the said finding came, when the application under section 137 of the Hindu Marriage Act was filed for divorce and proceedings for restitution of conjugal right.

6. In the case in hand, only the examination-in-chief of the DW-1 has been recorded and the electronic document has been accepted. Therefore, the present Petitioner is having right to cross examine the said witness to prove alteration, modification, morphing of voice or to disprove voice of the Petitioner or recording in the said pen-drive Exh.80. Therefore, I do not find that this is a fit case to exercise jurisdiction under Article 227 of the Constitution of India read with Section 482 of the Criminal Procedure Code.

7. Hence, the Criminal Writ Petition is dismissed.

(Y. G. KHOBRAGADE, J.)