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IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL REVISION APPLICATION NO.23 OF 2022

ROSARIO HIPOLITO DE JESUS DINIZ	... APPLICANT
Versus	
ELIZEBETH JOSE DINIZ	... RESPONDENT

Mr. John Abreu Lobo, Advocate for the Applicant.

Ms. Prachi Sawant, Advocate for the Respondent under the Legal Aid Scheme.

CORAM:- BHARAT P. DESHPANDE, J.

DATED :- 29th July, 2024

P.C.

Heard Mr. Lobo for the Applicant and Ms. Sawant appearing for the Respondent under the Legal Aid Scheme. The Respondent is also present in person.

2. The challenge in the present Revision is to the orders passed by both Courts below, whereby the Application filed by the Applicant for dismissal of the proceedings under Section 12 of the Domestic Violence Act came to be rejected.

3. Mr. Lobo would submit that the Respondent who filed the Petition before the concerned Magistrate, herself admitted in another proceedings filed before the Civil Court that the Applicant and the

Respondent are living separately since last eight years. Mr. Lobo submits that there is no domestic relationship between the parties and the Application was filed belatedly.

4. Ms. Sawant submits that after the rejection of the Application, there is substantial progress in the domestic violence case and the matter is now fixed for arguments.

5. Since the Application under Section 12 of the Domestic Violence Act was filed somewhere in 2017 and there is substantial progress in the said proceedings conducted before the learned Magistrate, no purpose would be served in keeping the present matter pending. Accordingly, the contentions raised by the Applicant are required to be decided by the learned Magistrate on its own merits as it squarely touches to the issue of maintainability of the Application wherein the Magistrate will have to decide whether there was any domestic relationship between the parties as on the date of cause of action for filing the Application.

6. Be that as it may, the Petition could be disposed of by giving directions to the learned Magistrate to decide such proceedings preferably within a period of six months from today. It is made clear that all the contentions of the Applicant as well as the Respondent which are raised in the present proceedings are kept open.

7. Both parties shall co-operate with the concerned Magistrate for disposal of the proceedings and within the timeline framed by this Court. Accordingly, the Revision Application stands disposed of with a direction to the learned Magistrate to decide Criminal Case No. 8/OA/DVA/2017/B within a period of six months from today. The parties shall co-operate with the concerned Magistrate for adhering to the timeline framed above.

8. The Respondent is making a grievance that though she filed an Application for appointment of an Advocate on legal aid basis on 13.03.2024, till date, no Advocate from the panel is appointed.

9. The learned Trial Court is therefore directed to inform the Secretary, District Legal Services Authority to appoint Advocate for the Respondent from the panel as early as possible.

10. The Revision stands disposed of in the above terms.

BHARAT P. DESHPANDE, J.