



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

CRIMINAL WRIT PETITION NO. 1381 OF 2023

Abdul Rahim Abdul Gani

.. Petitioner

Versus

Mehraj Begum W/o Abdul Rahim And Others

.. Respondents

Mr. Shrikrishna B. Solanke, Advocate for the Petitioner.

CORAM : KISHORE C. SANT, J.

DATE : 06th AUGUST, 2025.

PER COURT :-

. None appears for the respondents. It is appearing from the earlier order dated 11.06.2025 that, none was present for the respondents. A last chance was given and the matter was adjourned to 25.06.2025. On 25.06.2025 the matter could not reach and it was adjourned to today. Today also none appears for the respondents.

2. Heard learned advocate for the petitioner.

3. The petition arises out of an order dated 21.08.2023 passed by the learned Judge, Family Court, Aurangabad below Exh. 45

and 51 in Petition E-32/2019. The petitioner/respondent before the Family Court had filed application below Exh. 45 for setting aside no cross order and closing evidence of the petitioner. By application below Exh. 51 he prayed to allow him to give evidence affidavit in the Court. The learned Judge observed that, the evidence of the respondent/wife was closed on 05.01.2022. Thereafter the petitioner filed evidence affidavit on 16.02.2022. Thereafter the matter was dragged by him and finally cross-examination of this petitioner was completed on 07.09.2022. The husband thereafter did not examine the witnesses on five dates thereafter and thus the evidence was closed by order dated 09.01.2023. Thereafter, the husband filed application for setting aside evidence closed order passed on 09.01.2023. The said order came to be set aside at the cost of Rs. 500/-. Though the cost was paid on 17.03.2023, he did not examine any witness and thereafter again he filed application for adjournment. It was allowed by way of last chance, however, on the next date i.e. on 28.06.2023 the husband and witness did not come to the Court and therefore, again order was passed of no cross at 4.00 p.m. On this the applications came to be rejected.

4. The learned advocate for the petitioner submits that, on 28.06.2023 the witness was to come from Beed. He could not reach the Court before 4.00 O'clock and it is for that reason the witness could not be examined. The petitioner cannot be faulted with the said. He submits that on the same day the applications were filed before the Court. When the applications were filed on the same day, the Court ought to have considered the application and allowed the same in the interest of justice.

5. This Court has gone through the order passed by the learned Judge, Family Court, Aurangabad. The learned Court has categorically given the reasons for not allowing the applications. It does appear that, it is the petitioner who shown lethargy in conducting the case. However, since the petitioner is respondent in that case and to give him fair opportunity to contest the proceedings, this Court is inclined to allow the petition. However, at the same time the conduct of the petitioner needs to be deprecated. Hence, the following order :

ORDER

(I) Criminal writ petition stands allowed in terms of prayer clause (B) subject to petitioner depositing an amount of

Rs. 5,000/- (Rs. Five Thousand only) in the Family Court at Aurangabad within a period of two (02) weeks from today.

(II) No adjournment shall be prayed by the petitioner henceforth and he should complete his evidence within two months from today.

(III) The learned Trial Judge is requested to complete the trial within six months from today.

6. With this, criminal writ petition stands disposed of.

(KISHORE C. SANT, J.)

P.S.B.