



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 588 OF 2025

RAMESHWAR BHARAT KEDAR

VERSUS

PRIANKA RAMESHWAR KEDAR

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Advocate for the Petitioner : Mr. Phad Avinash A.

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CORAM : SHAILESH P. BRAHME, J.

DATE : 02.05.2025

PER COURT :-

1. Petitioner is taking exception to the order dated 28.03.2025 passed by Trial Magistrate allowing application Exh.62 preferred by the respondent/wife for issuing witness summons to one Mr. Nitin Gurav.

2. It is submitted by learned counsel for the petitioner that application filed by the respondent is frivolous and such a type of evidence is not at all necessary to decide the controversy between the parties. There is no material on record *prima facie* to indicate that petitioner has contracted second marriage. Application is being made with oblique motive to procure the attendance of a person or the production of the documents. It is submitted that Appeal No.48 of 2025 preferred challenging order dated 28.03.2025 has also not been decided and no stay

was granted by the Lower Appellate Court to the proceedings of the Trial Court. Application for stay is still pending.

3. Learned counsel relies on the judgment of Supreme Court in *Swapan Kumar Chatterjee Vs. Central Bureau of Investigation ; (2019) 14 Supreme Court Cases 328*.

4. I have gone through the order dated 28.03.2025 passed below Exh.62 in PWDVA No.249 of 2019 by the Magistrate. The self same order has been assailed in PWDV Appeal No.48 of 2025 along with application for stay to the order impugned. Then, criminal appeal is subjudiced to test impugned order, this Court need not divulged into the merits of order dated 28.03.2025 passed below Exh.62. It would be appropriate for the Lower Appellate Court to apply mind and consider the order on its own merits. Lower Appellate Court has issued notice to other side.

5. I do not find that any case is made out to exercise jurisdiction under Article 227 of the Constitution of India.

6. The judgment cited by the petitioner is of no avail to him because merits of the order dated 28.03.2025 can be gone into by Lower Appellate Court. Indirectly, petitioner is prosecuting remedy against impugned order before two Courts.

7. Writ Petition stands dismissed.

(SHAILESH P. BRAHME, J.)

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vmk/-