

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.13523 OF 2025

Delnaz E Anklesaria Nee Katgara ... Petitioner

V/s.

State Of Maharashtra Thro. the ... Respondents
Office Public Prosecutor and Ors.

Mr. Rohaan Cama, with Aseem Naphade, Hrusih Narvekar, Anuj Desai, Ativ Patel and Harshad Vyas i/by AVP Partners, for the petitioner.

Ms. Savina Crasto, AGP, for the State.

Mr. Mihir Desai, Senior Advocate with Vikram Deshmukh, Raavleen Sabharwal, Sanskruti Vagnik and Sapne Raichure, for the respondent.

CORAM : N.J. JAMADAR, J.

DATE : 14TH OCTOBER 2025.

PC:

1. Heard the learned counsel for the parties.
2. The challenge in this petition is to an order dated 4th October 2025, passed by the learned Judicial Magistrate First Class, Kurla, Mumbai in C. No. 2249/MISC/2025, whereby the learned Magistrate, purportedly in exercise of the power under Section 102 of the Mental Healthcare Act, 2017, has directed the police to take the petitioner into protective custody and produce her before the concerned medical officer/psychiatrist of Lokmanya Tilak Municipal General Hospital at Sion for psychiatric evaluation and assessment in accordance with Section 102 of the Act.

3. The medical officer, in turn, has been directed to conduct the evaluation and submit a report to the Court within 10 days from the date of the examination.
4. Evidently, the impugned order was passed without providing an opportunity of hearing to the petitioner. In fact, an ex-parte order was passed.
5. Mr. Desai, the learned Senior Advocate for the respondent no. 3, the husband of the petitioner, who had filed the said application before the learned Magistrate, fairly submits that, the matter may be remanded back to the learned Magistrate for a fresh decision after providing an opportunity of hearing to the petitioner.
6. Mr. Cama, the learned counsel for the petitioner, submits that he is not averse to the aforesaid proposition.
7. Since the order is passed without the petitioner having appeared or been brought before the learned Magistrate, the impugned order stands quashed and set aside.
8. Any action taken consequent to the impugned order also stands quashed and set aside.
9. The Application C. No. 2249/MISC/2025 is restored to the file of the learned Magistrate.
10. Learned Magistrate is requested to hear and decide the said application afresh after providing an opportunity of hearing to the parties and in accordance with law.

11. The parties shall appear before the learned Magistrate on 27th October 2025.

12. It is clarified that this Court has not entered into merits of the matter and all contentions of all the parties are kept open for consideration.

(N.J. JAMADAR, J)