

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 17376 OF 2025**

Delnaz E. Anklesaria nee Katgara ..Petitioner

**Versus**

State of Maharashtra & Ors. ...Respondents

Mr. Aseem Naphade, Mr. Anuj Desai, Mr. Shlok Parekh, Mr.  
Ativ Patel i/b. AVP Partners, for the Petitioner.

Mr. Vikramaditya Deshmukh a/w Ms. Sapana Rachure,  
Ravleen Sabharmal, Ms. Shivani Singh, Ms. Sanskruti  
Yagnik i/b. R. S. Justicia, for the Respondent No. 3.

Mr. D. S. Deshmukh, AGP for Respondent No. 1 - State.

**CORAM: N. J. JAMADAR, J.**

**DATE : 19<sup>th</sup> DECEMBER 2025**

**P.C.:**

1. Heard the learned Counsel for the parties.
2. The challenge in this petition is to an order dated 06<sup>th</sup> December, 2025 passed by the learned Magistrate directing the father of the petitioner to produce the petitioner before the learned Judicial Magistrate, First Class, 30<sup>th</sup> Court, Kurla, who has initiated an inquiry under the Mental Healthcare Act, 2017.
3. This is a second round of proceedings before this Court. In WP No. 13523/2025, by an order dated 14<sup>th</sup> October, 2025, this

Court had set aside an order passed by the learned Magistrate directing 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, 2017.

4. This Court had further directed that, the learned Magistrate shall hear and decide the said application afresh after providing an opportunity of hearing to the parties in accordance with law. The parties were directed to appear before the learned Magistrate on 27<sup>th</sup> October, 2025.

5. There is a controversy as regards the events that unfolded before the learned Magistrate, post the order passed by this Court on 14<sup>th</sup> October, 2025. Eventually, by the impugned order the learned Magistrate has directed the parents of the petitioner to produce the petitioner before the learned Magistrate for interaction so as to facilitate inquiry as mandated by the Supreme Court in the case of **Sharda Vs. Dharmpal**<sup>1</sup>

6. Mr. Naphade, the learned Counsel for the petitioner, on instructions submitted that, the main application was disposed

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**1** (2003) 4 SCC 493

by the learned Magistrate by an order dated 15<sup>th</sup> November, 2025. It was further submitted that, even a copy of the said application was not served on the petitioner, despite requisition.

7. Mr. Deshmukh, the learned Counsel for respondent No. 3, on instructions, submits that, the order adverted to does not form record of the Court. It was further submitted that, though by an order dated 15<sup>th</sup> November, 2024, the main application was initially disposed, by a further order dated 26<sup>th</sup> November, 2025, the learned Magistrate has restored the said application. Mr. Deshmukh serves a copy of the application No. 2249/MISC/2025 to Mr. Naphade, across the bar.

8. The fact remains that, the learned Magistrate has not conducted the inquiry envisaged under the Mental Healthcare Act, 2017, in the sense that, the learned Magistrate has had interaction with the petitioner and assessed the mental health of the petitioner.

9. Mr. Naphade, the learned Counsel for the petitioner, submitted that, the petitioner, who is present before the Court, is willing to appear before the learned Magistrate. It was further submitted that, pursuant to the order passed by this Court, the

petitioner has a scheduled access to the child of the petitioner and Respondent No. 3 and, therefore, the petitioner's appearance before the learned Magistrate in the proceedings i.e. Miscellaneous Application No. 2249/MISC/2025 be postponed on 22<sup>nd</sup> December, 2025.

10. Mr. Deshmukh, the learned Counsel for the Respondent No. 3, submitted that, the Respondent No. 3 is not averse to the petitioner appearing before learned Magistrate on 22<sup>nd</sup> December, 2025.

11. The appearance of the petitioner before the learned Magistrate would facilitate the inquiry under the Mental Healthcare Act, 2017 and resolve the dispute over the propriety of the procedure adopted by the learned Magistrate. In view of the above, the petition stands disposed with the following directions:-

**::ORDER::**

I) The impugned order as well as notice issued to the parents of the petitioner stands quashed, on the condition that, the petitioner will appear before the learned Magistrate in Application No. 2249/MISC/2025 on 22<sup>nd</sup> December, 2025 at 11:00 a.m.

- ii) The learned Magistrate is requested to hear and decide the Application No. 2249/MISC/2025 after providing an opportunity of hearing to the petitioner and Respondent No. 3, in accordance with law.
- iii) The petition stands **disposed**.

**[N. J. JAMADAR, J.]**