

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.596 OF 2025

Nirmala Vijay Saroj Alias Nirmala Devi	...Petitioner
Juganu Prasad Bharti (maiden name)	
<i>Versus</i>	
State of Maharashtra & Ors.	...Respondents

Mr. Dilip Shukla a/w Ms. Priya C. Pandey, Advocate for Petitioner.
Ms. A.S. Gotad, APP for the Respondent No.1- State.
Mr. Santosh Musale a/w Mr. Vikas Tiwari, Mr. Rohit Gupta, Gopal Singh, Aaditya Urankar for Respondent No.2.

CORAM: MADHAV J. JAMDAR, J.
DATED : 8th April 2025

P.C.:

1. Heard Mr. Shukla, learned Counsel for the Petitioner, Mr. Musale, learned Counsel for the Respondent No.2 and Ms. Gotad, learned APP for the State.

2. By the present Writ Petition, filed under Article 227 of the Constitution of India, the challenge is to the legality and validity of the Order dated 9th December 2024 passed by the learned Additional Sessions Judge, City Civil & Sessions Court, at Mazgaon in Criminal Appeal No. 339 of 2024 as well as the Order dated 8th May 2024 passed by the learned Metropolitan Magistrate, 13th Court, Dadar, Mumbai below Exhibit 36 in CC No. 19/DV/2022.

3. By the said impugned Order dated 8th May 2024, order dated 6th June 2023 passed below Exhibit 12 in CC No.19/DV/2022 by the learned Metropolitan Magistrate, Dadar, Mumbai is quashed and set aside, as the same was passed *ex parte*. The said impugned Order dated 8th May 2024 is confirmed by the learned Appellate Court by the impugned Order dated 9th December 2024.

4. The said Order dated 6th June 2023 passed below Exhibit 12 which has been set aside as the same was *exparte* order, reads as under :

“01. The application is partly allowed.

02. Respondent Nos.1 to 9 are hereby restrained from disturbing the possession of the applicant and her child in the share household i.e. Room No.12 Thokarsi Jivraj Chawl No.07, T.J. Road, Sewree West, Mumbai till disposal of the main petition.

03. Respondent Nos. 1 to 9 are further restrained from entering into the share household i.e. Room No.12 Thokarsi Jivraj Chawl No.07, T.J. Road, Sewree West, Mumbai till disposal of the main petition.

04. Copy be sent to the concerned Police Station and protection officer for information and necessary action.

05. Copy of this order be provided to both the parties free of cost.”

5. As noted hereinabove the said Order dated 6th June 2023 has been set aside by the Order dated 8th May 2024 as confirmed by the Order dated 9th December 2024.

6. Both the learned Counsel state that pursuant to the Order dated 8th May 2024, Application bearing Exhibit 12 in CC 19/DV/2022 is kept for hearing on 14th May 2025.

7. Although no interference in the impugned Orders are warranted, it is directed that Clause Nos. 2, 3 and 4 of the Order dated 6th June 2023 shall operate as ad-interim Order till the disposal of Exhibit 12 application filed in CC No. 19/DV/2022.

8. The learned Metropolitan Magistrate is requested to dispose of said Exhibit 12 Application expeditiously on or before 31st July 2025.

9. It is clarified that this Court has not considered the merits and all contentions on merits are expressly kept open.

BHALCHANDRA
GOPAL
DUSANE

(MADHAV J. JAMDAR, J.)

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BHALCHANDRA
GOPAL DUSANE
Date: 2025.04.09
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