

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1008 OF 2025**

Lajja Sadarangani ... Petitioner

versus

Suresh Achhipalia And Ors. Respondent

Mr. Ansh Karnawat along with Mr. Pulkeshi Gaikwad and Mr. Karan i/b. Dinesh D. Tiwari Associates, Advocates for the Petitioner.

Mr. Satyavrat Joshi along with Mr. Kiran Jain, Mr. Rajan Yadav, Mr. D. Jain and Ms. Sangita Rathod i/b. Kiran Jain and Co., Advocates for Respondent Nos.1 to 6.

Mr. Pankaj P. Deokar, APP for Respondent No.7-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 3rd MARCH, 2025.

P.C. :

1. By this petition, the petitioner has challenged the order dated 23rd January 2025 passed by learned Additional Metropolitan Magistrate in Summons (Warrant) Case No.100 of 2011 dismissing the permission to the petitioner to lead further evidence in terms of the application at Exhibit-157.

2. It is contention of learned counsel for the petitioner that the petitioner has filed complaint against respondent Nos.1 to 6 under the provisions of Protection of Women from Domestic Violence Act, 2005.

Learned counsel further submitted that the petitioner had filed an affidavit of examination-in-chief of petitioner witness No.3 (PW-3) to examine him.

**SHUBHADA
SHANKAR
KADAM**

Digitally signed by
SHUBHADA SHANKAR
KADAM

Date: 2025.03.10
17:34:43 +0530

This witness was a photographer but he remained absent for long time, hence, the petitioner dropped him as witness and, due to long absence of PW-3, his cross was discarded and on the same day, the evidence of the petitioner was closed. Thereafter, petitioner filed an application for setting-aside the said order, it was rejected. Thereafter, the respondents have filed evidence of their witness I.e RW-1. After closing of petitioner's evidence, the respondents filed an application for recalling of evidence of PW-1. The said application was rejected by the Trial Court. The said order was challenged by respondents before this Court and permission was granted to them on 18th July 2023 for further cross-examination of PW-1. After completion of cross-examination of PW-1 in September 2024 and after getting some new record, the petitioner filed an application in January 2025 to permit her to lead evidence but the said application has been rejected on the ground that the trial before the Trial Court is time bound by this Court and sufficient opportunity was given to the petitioner to lead evidence. Learned counsel further submitted that the petitioner be permitted to lead evidence as the petitioner wants to examine more witnesses and without taking adjournment, the petitioner will examine all the witnesses.

3. It is contention of learned counsel for respondent Nos.1 to 6 that the petitioner's evidence was closed in the year 2016 by way of evidence closed pursis but the petitioner was permitted to lead further evidence in December 2016. The petitioner's evidence was again closed

on 6th June 2023 as PW-3 remained absent for cross-examination. Thereafter, the petitioner had filed an application below Exhibit-188 before the Trial Court for setting-aside the order passed by the Trial Court regarding discarding the cross-examination of PW-3 and closing of evidence of the Petitioner. The Trial Court, by order dated 4th July 2023 rejected the said application. Thereafter respondents filed affidavit of evidence of respondents' witness and after getting copy of that affidavit of evidence, the petitioner filed fresh application for leading further evidence. Learned counsel further submitted that the petitioner's earlier application for leading evidence was already rejected on 4th July 2023, hence, the petitioner cannot file fresh application on the same ground. The proceeding before the Trial Court is pending since 2011. The respondents are senior citizen. If the petitioner is permitted to lead further evidence, it would take time and petitioner wants to prolong the matter. Hence, requested to dismiss the petition.

4. I have heard both learned counsel, perused the impugned order passed by learned Metropolitan Magistrate, 18th Court, Girgaon, Mumbai (for short "the Trial Court").

5. While passing the order below Exhibit-157, the learned Trial Court has observed that the matter is for respondent No.1's cross-examination. This is a time bound matter by Hon'ble High Court. The application appears to be after thought, not maintainable and the petitioner's earlier application was rejected.

6. In my view, as per the principle of natural justice, it is necessary to give fair opportunity to both the parties to lead evidence, as the matter is under Protection of Women from Domestic Violence Act, 2005. This Court had permitted the respondents to further cross-examine PW-1 by allowing petition of respondents. If the petitioner is directed not to take adjournments before the Trial Court without any reasonable ground and, imposing heavy cost cost on her, would suffice.

8. Respondent No.1 is permitted to withdraw the additional affidavit filed by him before the Trial Court and if he intends to file fresh affidavit, he can file it after the evidence of petitioner.

9. In view of above, I pass following order :

ORDER

- (1) The petition is allowed.
- (2) The petitioner is permitted to lead further evidence.
- (3) The petitioner shall not take adjournments without any reasonable ground as the matter before the Trial Court is time bound by this Court.
- (4) The petitioner shall pay cost of Rs.25,000/- to respondent No.1. Learned counsel for the petitioner handed over the cheque of Rs.25,000/- to respondent No.1.
- (5) The petitioner shall file an affidavit of first witness to whom she intends to examine before the Trial Court on 17th March

2025 and give copy of it to respondents at least four days in advance.

- (6) The witness of the petitioner must remain present on 17th March 2025 before the Trial Court.

The writ petition stands disposed of.

(SHIVKUMAR DIGE, J.)