



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL WRIT PETITION NO. 57 OF 2025

PETITIONER : Sau. Ashwini Ashish Moon,
Aged about 36 years, Occupation : Nil,
R/o At Khante Nagar, Plot No. 7, near
Rahul Balsadan Aashram,
Nagpur -440017 Police Station Pachpaoli.

VERSUS

RESPONDENTS : Shri Ashish Naresh Moon,
Aged about 43 years, Occupation –
Service, R/o 28/B, Bhagwan Nagar,
Near Balaji Bus Stop, Sainath School,
Parvati Nagar, Nagpur-27
Mob.:9907198705, 7077756275

Ms. Kanak Mandpe, counsel h/f Mr. Y.B. Mandpe, counsel for
petitioner.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : 20/01/2025

ORAL JUDGMENT :

1. Rule.
2. Rule made returnable forthwith. Heard finally by
consent of learned counsel Ms. Kanak Mandpe for the petitioner.

3. By this writ petition, the petitioner has challenged the order below Exhibit No.42 dated 18/12/2024 passed by the Judge, Family Court No.2, Nagpur, rejecting the application of the petitioner which was filed for setting aside no cross-examination and closing the evidence of the petitioner

4. Heard learned counsel for the petitioner, who submitted that only once, as learned counsel was busy in another Court, the adjournment application was filed, but the Family Court without giving an opportunity to the present petitioner to cross-examine the respondent passed the order of no cross-examination, and the application filed by the present petitioner for setting aside the no cross-examination order is also rejected and no opportunity was granted to the present petitioner to cross-examine the witnesses.

5. From the order, it reveals that matrimonial proceedings is pending between the petitioner and the respondent before the Family Court No.2, Nagpur. The present petitioner, who is an applicant therein, has already adduced her evidence and the record shows that on 18/11/2024, on the request of learned counsel for the applicant, the cross was adjourned. Thereafter

02/12/2024, the matter was fixed for cross-examination of the respondent. On that day, learned counsel for the petitioner was present in the morning session, but he remained absent. Hence, in the afternoon session, no cross-examination was conducted on 02/12/2024, and the matter was kept on 03/12/2024. Till evening of 03/12/2024 no cross-examination was conducted and therefore, the order came to be passed against the present petitioner.

6. From the order passed by the Family Court, it reveals that, without due reason, the cross-examination of respondent was kept pending. Till evening of 03/12/2024 no cross-examination of the witness was taken on a mere reason that, the learned counsel for the petitioner was busy in another court and it cannot be a reason to grant an adjournment. However, in the interest of justice, an opportunity is to be granted to the present petitioner to cross-examine the witness. However, the petitioner shall not seek unnecessary adjournment and shall not harassed the respondent by keeping him waiting till the evening. Now, the matter is already listed on 23/01/2025. Learned counsel for the petitioner shown his willingness to cross-examine the respondent on 23/01/2025

itself.

7. Considering the submission and statement made by the learned counsel for petitioner, the petition deserves to be allowed. Hence, I proceed to pass the following order.

- a] The criminal writ petition is **allowed**.
- b] The order passed by the Family Court No.2, Nagpur dated 18/12/2024, rejecting the application of the petitioner for setting aside the no-cross order is hereby quashed and set aside.
- c] The petitioner is permitted to cross-examine the respondent on 23/01/2025.
- d] The Family Court, Nagpur shall not entertain any adjournment application of the present petitioner on 23/01/2025.

8. **Rule** is made absolute in the above terms. No order as to costs.

[URMILA JOSHI-PHALKE, J.]