



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

CRIMINAL WRIT PETITION NO.547 OF 2024

Prafulla s/o Pundlikrao Raut and others .Vs. Kadambari Prafulla Raut and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri P.A. Abhyankar, Advocate for petitioners.
Ms Pallavi Khaprikar, Advocate for respondents.

CORAM : ANIL S. KILOR, J.
DATED : 13/02/2025

1. Heard.

2. In the present writ petition, the order dated 12.06.2023 whereby the learned appellate Court allowed the appeal and set aside the order dated 21.08.2015 passed by the learned 25th Judicial Magistrate First Class, Nagpur in Misc. Criminal Application No.4127 of 2014 granting discharge to non-applicant Nos.2 to 6, is under challenge in this writ petition.

3. The respondents are the applicants before the learned trial Court in a proceeding filed under Sections 12, 17, 18, 19, 20, 22 and 23 of the Protection of Women from Domestic Violence Act, 2005. In the said proceeding, the prayers were made as under :-

“(i) the present petition of the petitioners be allowed and respondent be directed to pay maintenance amount @ Rs.20,000/- per month to the petitioner No.1 and @ Rs.10,000/- per month to the petitioner No.2, i.e. total Rs.30,000/- per month right from the date of filing of this petition,

(ii) cost of present proceedings Rs.15,000/- be saddled upon Respondents and

(iii) pass such order or other orders at his Hon"ble Court, as deems just and fit and proper under the given facts and circumstances of the case for protecting the aggrieved person from domestic violence and in the interest of justice.

(iv) and also pay as per the D. cost of present proceedings Rs.15,000/- be saddled upon Respondents and

(iii) pass such order or other orders at his Hon'ble Court, as deems just and fit and proper under the given facts and circumstances of the case for protecting the aggrieved person from domestic violence and in the interest of justice."

4. However, it appears that, while issuing notice, the learned trial Court failed to take into consideration prayer clause (iii) and the allegations made in the complaint against the non-applicant Nos.2 to 6. The learned trial Court therefore, considering the application as for maintenance, issued notice to the non-applicant Nos.1 on 29.12.2014 and further observed that, the applicant to argue on the involvement of the other non-applicants.

5. On 21.08.2015, the learned trial Court passed the following order :-

"Despite sufficient opportunities, the applicant has failed to argue on the point of involvement of other non-applicants nos. 2 to 6, Hence, the Non-applicant nos 2 to 6 are hereby discharged from the present proceeding."

6. From the above referred order, it is evident that the learned trial Court discharged non-applicant Nos. 2 to 6 on the ground that despite sufficient opportunity, the

applicant failed to argue on point of involvement of non-applicant Nos.2 to 6.

7. This order was the subject matter of challenge in the appeal namely Criminal Application No.338 of 2023. The learned appellate Court while allowing the appeal has recorded the reasons in paragraph-7, which read thus :-

*“7. The applicant does not want this litigation to end and hence all attempts are being made to protract the matter. The evidence of the applicant was concluded in 2017. Since last 6 years the applicant avoided cross examination of the respondent No.1. He has concluded his evidence on 17.03.2023 and matter is posted for final hearing and the applicant has now come up with this mischievous application. It is high time that this **delaying tactic** is strongly dealt and stopped.”*

8. Having gone through the record, I have no hesitation to hold that the reasons recorded by the learned appellate Court, are just and proper, as the learned trial Court failed to appreciate prayer clause (iii) as well as the allegations made in the complaint against the non-applicant Nos.2 to 6. Furthermore, the learned trial Court recorded no reasons while granting discharge to the non-applicant Nos.2 to 6.

9. In that view of the matter, since I do not find any merit in the present petition, the writ petition is **dismissed**.

JUDGE