

JUVERIA ABDUL MAJID PATNI Vs. ATIF IQBAL MANSOORI
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LAWS(SC)-2014-9-100
Supreme Court Of India
Decided on September 18,2014

JUVERIA ABDUL MAJID PATNI

Appellant

VERSUS

ATIF IQBAL MANSOORI

Respondents

JUDGEMENT

Sudhansu Jyoti Mukhopadhaya, J. - (1.) LEAVE granted.

(2.) THIS appeal has been preferred by the Appellant against the judgment dated 23 January, 2013 passed by the High Court of Judicature at Bombay in Writ Petition No. 4250 of 2012. By the impugned judgment, the High Court dismissed the writ petition preferred by the Appellant and upheld the order dated 3 November, 2012 passed by the Additional Sessions Judge, Sewree, Mumbai whereby the Sessions Judge held that the application filed by the Appellant under the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as the "Domestic Violence Act, 2005") is not maintainable. The case of the Appellant is that she got married to 1st Respondent according to Muslim rites and rituals on 13th May 2005. 1st Respondent was in the habit of harassing her. She was subjected to physical abuse and cruelty. For example, 1st Respondent acted with cruelty, harassed her and had banged her against a wall on her back and stomach on 5th January, 2006, due to which she suffered severe low back pain. The 1st Respondent refused her entry into the matrimonial house on 19th February, 2006 and asked her to stay with her parents. She delivered a baby boy at Breach Candy Hospital, Mumbai on 10th August, 2006 but the 1st Respondent never visited to see the new born baby. Later, the 1st Respondent filed a petition seeking custody of the minor child.

(3.) THE Appellant lodged FIR No. 224 of 2007 on 6th September, 2007 before Agripada Police Station Under Section 498A, and 406 Indian Penal Code against the 1st Respondent, his mother and his sister. Against the same, a writ petition was filed by the 1st Respondent bearing Writ Petition No. 1961 of 2007 seeking quashing of the FIR. The High Court dismissed the said writ petition and the same was challenged by the 1st Respondent on which this Court issued notice. Subsequently, this Court by order dated July, 2008 remitted the matter to the High Court for hearing afresh Writ Petition No. 1961 of 2007. On 4th December, 2008, Writ Petition No. 1961 of 2007 was partly allowed by the High Court quashing the FIR against the 1st Respondent's mother and sister with the observation that the prima facie case Under Section 498A was made out against the 1st Respondent. ;

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