

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA
CMPMO No.446 of 2024
Decided on 24th November, 2025

Smt. Nidhi

...Petitioner

Versus

Sh. Om Prakash Awasthi and another

...Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge

¹Whether approved for reporting?

For the petitioner: Ms. Kiran Verma, Advocate.

For the respondents: Mr. Parav Sharma, Advocate.

Ajay Mohan Goel, Judge (Oral)

By way of this petition, the petitioner has, *inter alia*,
prayed for the following relief:-

"It is, therefore, most respectfully prayed that the present petition may kindly be allowed and the order passed by learned Additional Sessions Judge(I) Shimla H.P., in Cr.MA MNo.52-S/10 of 2022 and Cr.M.A No.53-S/10 of 2022 dated 15.01.2024 (Annexure P-3) titled as Nidhi Awasthi versus Om Prakash and another may kindly be quashed and set aside and the application of the appellant may kindly be ordered to be allowed throughout, in the interest of law and justice."

2. Brief facts necessary for the adjudication of this petition are that the proceedings filed by the present petitioner under the provisions of the Protection of Women from Domestic

Violence Act, 2005 (hereinafter referred to as 'the 2005 Act') against the respondents were dismissed for non-prosecution on 10.01.2019 vide Annexure P-1. Feeling aggrieved, the petitioner filed an application for recalling of that order alongwith an application seeking condonation of delay in filing the application. Vide order dated 25.07.2022 (Annexure P-5), learned Court dismissed the applications filed by the petitioner. Said order was assailed by way of an appeal and the learned Appellate Court has dismissed the appeal in terms of the impugned order dated 15.01.2024 (Annexure P-9).

3. Learned counsel for the petitioner has argued that in light of the fact that the non-prosecution of the proceedings by the petitioner was not intentional and as it was due to certain circumstances beyond her means, on account of which, she could not appear before the learned Court, therefore, the orders that have been passed by the learned Courts are harsh. Accordingly, she prayed that the petition be allowed by setting aside the impugned order and by restoring the proceedings initiated by her under the 2005 Act.

4. On the other hand, learned counsel for the respondents submitted that the petitioner intentionally did not appear before the learned Court below, as she was not interested in pursuing the case and the same, therefore, was rightly dismissed for non-prosecution by the learned Court. He further argued that the application for recall of the order as well as the appeal has been rightly rejected by the learned Courts and in the light of the fact that there is no perversity in the impugned orders, the present petition being devoid of any merit is liable to be dismissed.

5. Having heard learned counsel for the parties and having perused the order under challenge as well as the other orders passed in the case, this Court is of the considered view that in the peculiar facts of this case, the same does not call for any interference.

6. The Court has been informed that the issue relates to the first marriage of the petitioner, whereas, after the death of her first husband, the petitioner has remarried. Though, at this stage, learned counsel for the petitioner submitted that there is a child from the previous marriage, but a perusal of the proceedings

demonstrates that the same were not initiated for the interest of the child or in the name of the child, but were filed by the petitioner herself. Therefore, as on account of the subsequent events including the remarriage of the petitioner, this petition otherwise has lost its efficacy, the same is dismissed. Pending miscellaneous applications, if any, also stand disposed of.

(Ajay Mohan Goel)
Judge

November 24, 2025
(*Vinod*)