

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****SPECIAL CRIMINAL APPLICATION No. 2115 of 2007****For Approval and Signature:****HONOURABLE MR.JUSTICE AKIL KURESHI**

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1 Whether Reporters of Local Papers may be allowed  
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of  
the judgment ?

4 Whether this case involves a substantial question of  
law as to the interpretation of the constitution of  
India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**PUSHPABEN UMESHBHAI PATEL - Applicant(s)****Versus****STATE OF GUJARAT & 1 - Respondent(s)**

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**Appearance :**

MR MAHENDRA U VORA for Applicant(s) : 1,

PUBLIC PROSECUTOR for Respondent(s) : 1,

None for Respondent(s) : 2,

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**CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI****Date : 30/10/2007****ORAL JUDGMENT**

1. RULE. Learned A.P.P. Mr. M.R. Mengdey waives service of Rule on

behalf of respondent No.1, State.

2. Since the application of the petitioner was turned down by the Courts below before issuing notice/process to respondent No.2, it is not necessary to await service of the Rule to respondent No.2.

3. The petitioner who is wife of respondent No.2 had filed Criminal Misc. Application No.46 of 2007 before the learned Judicial Magistrate First Class, Sami under the provisions of Protection of Women from Domestic Violence Act, 2005. The learned Magistrate was of the opinion that such application was not in prescribed proforma. He therefore, by impugned order dated 27.6.2007 directed the petitioner to file proper application in proper proforma as required under the Act and Rules made thereunder. The petitioner approached learned Sessions Judge against the said order, however, her appeal was turned down by the impugned order dated 6.8.2007. The petitioner is therefore, before this Court.

4. Learned advocate Shri Vora for the petitioner submitted that the prescribed form did not provide for descriptive details of the grievance of the petitioner and therefore, the petitioner had filed application giving full particulars. He submitted that even as per the provisions contained

under the Act, the application has to be filed as closely as possible in the form prescribed. He, therefore, submitted that the authorities ought to have accepted the application of the petitioner and not insisted upon rigid compliance with the proforma.

5. Having heard the learned advocates appearing for the parties and considering that the petitioner is 59 years old lady seeking redress of her grievance, this petition is disposed of by directing that if petitioner files a fresh application filling up prescribed form under the Act and Rules and also gives further details in accompanying annexure, if so required, the same shall be entertained by the learned Magistrate.

6. With these directions, the petition is disposed of. Rule is made absolute to the above extent. Direct service is permitted.

(AKIL KURESHI, J.)

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