

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.847 OF 2015

Shri Dattatray Genba Gaikwad ..Petitioner  
Versus  
Sou. Swati Dattatray Gaikwad  
and another. ..Respondents

....  
Mr. V. V. Salunkhe i/b. R.V. Katore, Advocate for the Petitioner.  
Mr. A.R. Patil, APP, for the State.

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CORAM : M. L. TAHALIYANI, J.

DATE : 22<sup>nd</sup> APRIL, 2015

P.C.

1. Heard learned Advocate for the petitioner and learned Additional PP for the State.
2. This Writ Petition impugns the order dated 10<sup>th</sup> February, 2015 passed by the learned Additional Sessions Judge, Pune whereby the appeal filed by the petitioner (husband) has been dismissed. Appeal was filed against the order of the Magistrate directing payment of maintenance of Rs.4,000/- to the respondent No.1.
3. It is submitted by learned Advocate for the petitioner that the petitioner is already paying Rs.4,000/- to the respondent No.1

by virtue of an order passed by the Civil Judge, Senior Division in the divorce proceedings. It appears that this fact was not brought to the notice of the Magistrate while passing the impugned order. It is also noticed that the petitioner has not so far filed his reply to the application filed by respondent No.1 under Section 12 of the Protection of Women from Domestic Violence Act.

4. In the circumstances, I am of the view that the best course open to the petitioner is to file reply and state all the facts in his reply. The petitioner can also move the trial Magistrate for modification of the earlier interim order in view of the facts which would be brought to his notice in the reply. The petition is, therefore, dismissed.

5. The petitioner shall file his reply to the application under Section 12 of the Protection of Women from Domestic Violence Act. The petitioner is at liberty to move the trial Magistrate for modification of the order. The learned trial Magistrate shall consider the prayer for modification of the order in the light of reply, if any, filed by the petitioner.

6. The Petition stands disposed of accordingly.

JUDGE