

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRI. WRIT PETITION NO. 2000 OF 2015

Vijaykumar Maruti Maske ... Petitioner.

V/s.

Sou. Sujata Vijaykumar Maske & Ors. ... Respondents.

Mr. Ramdas A. Shelke, Advocate for the Petitioner.

Mr. A. B. Patil, Advocate for Respondent No.1.

Mrs. G. P. Mulekar, APP for the State.

CORAM : M.L.TAHALIYANI,J.

DATE : 02nd JULY, 2015

P.C. :

1 Admit. Taken up for final hearing by consent of the parties.

2 Heard the learned counsel appearing for both the sides.

3 Petitioner is one of the respondents in Criminal Case No. 302 of 2013, pending in the court of Judicial Magistrate, First Class, Sangli. The said application has been filed by respondent no. 1 on behalf of herself and on behalf of respondent nos. 2 and 3. The rest of the respondents are formal parties. They are the original respondents alongwith the petitioner in the above stated criminal case.

4 The petitioner is aggrieved by the order of the learned Magistrate, striking off his defence. The defence was struck off because the petitioner failed to pay arrears of interim maintenance. In my view, the order is absolutely incorrect. As far as the recovery of arrears is concerned, a separate procedure is laid down for the same. The main proceedings have to proceed on merits.

5 Therefore, the order of the learned Magistrate is not sustainable. The order passed by the Judicial Magistrate, First Class in Criminal Case No. 302 of 2013 below Exhs. 95 and 96 is set aside. The case to proceed further in accordance with law.

6 Writ petition is allowed and stands disposed of in the above terms.

(JUDGE)

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