

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

CRI. WRIT PETITION NO. 4738 OF 2015

Smt. Ashwini Michael Menezes ... Petitioner.

V/s.

The State of Maharashtra & Ors. ... Respondents.

Mr. Kapil Dave a/w. Deepak Shukla i/by Asha Ram Shukla,
Advocate for the Petitioner.

Mr. D. P. Adsule, APP for the State.

CORAM : A.V. NIRGUDE, J.

DATE : 18th DECEMBER, 2015.

P.C. :

1 Respondent Nos. 2, 3 and 4 are served but are absent.

2 This writ petition challenges the correctness of the order dated 7th December, 2015 passed by the learned Additional Chief Metropolitan Magistrate, 24th Court, Borivali, Mumbai. This is an order, making some arrangement between the parties for payment of maintenance. However, the learned Magistrate apparently forgot to deal with the question of residential arrangement to be made by the respondent-accused for his wife and children. I am told that there is a flat lying vacant under the lock and key of the respondent-accused. I am

also told that this flat belongs to the husband and wife jointly. The petitioner-wife wants to utilize this house as her residence but since the respondent-accused had locked the flat, petitioner-wife is unable to enter in it. The learned Magistrate is required to deal with the request of the petitioner- wife independently.

3 I am, therefore, directing the learned Magistrate to decide the issue as to whether the petitioner is entitled to occupy the flat in question, as a stop gap arrangement between the parties. Such issue shall be decided within four weeks from today.

4 The petition stands disposed of in the above terms.

(A.V. NIRGUDE, J.)

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