

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

WRIT PETITION NO.2898 OF 2015

Swapnil Suresh Divekar Petitioner

Vs.

Sonali Swapnil Divekar Respondent

Mr. Pandit Kasar, Advocate for the Petitioner.

Mr. Onkar V. Warange, Advocate for the Respondent.

Coram : **Smt. R.P. SondurBaldota, J.**

Date : 11th July, 2016

P.C.

1 This petition challenges the order dtd.2nd May, 2015, by which the District Court, Mangaon allowed the application for interim reliefs in criminal appeal preferred by the petitioner subject to the conditions imposed therein. The conditions are that the petitioner shall deposit within one month 60% of the amount of the arrears of maintenance as well as amount of compensation in the court and that he shall go on depositing 60% of the monthly maintenance allowance in the trial court on/or before 10th day of every month. Mr. Kasar, the learned advocate for the petitioner firstly contends that the petitioner is not in arrears of maintenance and that he has been depositing sum of Rs.2,000/- per month

meticulously. The order impugned in the appeal awards maintenance @5,000/- per month since the date of the application, which was filed in the year 2013. In that circumstance, the claim that the petitioner is not in arrears of maintenance cannot be accepted. Besides by way of an interim relief in the appeal preferred by the petitioner, the court has already reduced the maintenance payable to the 60% of that ordered by the Trial Court. Mr. Kasar submits that it would be impossible for the petitioner to pay this amount. The petitioner claims to be a labourer and completely dependent upon his father. He has produced certificate of the income of the father issued by Tahsildar. The certificate states that the yearly income of the father of the petitioner is of Rs.60,000/-. This would mean that his income is Rs.5,000/- per month. As per the petitioner, he has till date been paying Rs.2,000/- to the respondent towards the maintenance. If these claims are accepted, it would mean that the petitioner and his family survive on Rs.3,000/- per month, which is not possible to accept. Thus, there is no substance in the petition. Hence, the petition is dismissed.

(Smt. R.P. SondurBaldota, J)