

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

WRIT PETITION NO. 799 OF 2015

Sou. Reshma Ravi Madhale

... **Petitioner**

V/s.

Shri. Ravi Abasaheb Madhale & Ors.

... **Respondents**

None for the Petitioner.

Mr. Kuldeep V. Nikam for the Respondent Nos. 1 to 5.

Mr. F.R. Shaikh, APP for the Respondent/ State.

CORAM : BHARATI H. DANGRE, J.

DATE : 30th AUGUST, 2018

P.C.:

. The present Writ Petition takes an exception to the Judgment and order dated 05.01.2015 passed by the Additional Sessions Judge, Jaysingpur, thereby over turning the order dated 01.09.2014 passed by the Judicial Magistrate First Class, Jaysingpur in Misc. Application No. 89 of 2013. The Misc. Application No. 89 of 2013 was filed by the wife seeking interim maintenance which came to be allowed by the Judicial Magistrate First Class, Jaysingpur and an amount of Rs.2,000/- has been granted by way of maintenance. The said order was taken in Appeal by the Respondent, who is husband before the Additional Sessions Judge, Jaysingpur by filing Criminal Appeal No. 34 of 2014. The said appeal was filed under Section 29 of the Protection of Women from Domestic Violence Act, 2005

and the Additional Sessions Judge, Jaysingpur allowed the appeal and set aside the order passed by the Judicial Magistrate First Class, Jaysingpur.

2 From perusal of the record, it appears that proceedings have progressed further. When the matter is called out, neither the Petitioner nor his Counsel is present.

3 The learned Counsel for the Respondent, however, invited my attention to an order dated 29.06.2017 passed by the Judicial Magistrate First Class, Jaysingpur. The copy of order produced which is taken on record and marked 'X' for identification. In the said order passed below Exh. 1, it is noted that the application was pending for considerable long time and it was listed for dismissal on several occasions. However, neither the Applicant remained present, nor any steps were taken to proceed in the said application. Resultantly, the learned Judicial Magistrate First Class, Jaysingpur had dismissed the said application.

4 In view of the said order, Misc. Application No. 89 of 2013 itself does not survive and hence, the present Writ Petition which arises out of the interim application for grant of maintenance, which was reversed in an Appeal is challenged, cannot survive.

5 Hence, Writ Petition is dismissed.

(BHARATI H. DANGRE, J.)