

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

CRIMINAL WRIT PETITION No. 4920 OF 2017

Irshad Ahmad Yunus Mukadam and Ors.

...Petitioners

Vs.

The State of Maharashtra and Ors.

...Respondents

Mr. Kayval P. Shah for Petitioners
Mr. S.S. Pednekar -APP for the State

CORAM : NITIN W. SAMBRE, J.

DATE: MARCH 12, 2018

P.C.

1. In domestic violence proceedings in M.A No. 98 of 2014, the Learned Magistrate has awarded maintenance of Rs. 1,000/- p.m. to Respondent No.2 wife and Rs.600/- each to Respondent Nos. 3 and 4 -children by an order dated February 1, 2014 against which appeal being appeal No. 24 of 2014 came to be dismissed vide order dated October, 31, 2017 by the Sessions Judge, Malegaon, as such this revision.

2. The learned counsel for the Applicant would urge that it is a fit case where revisional jurisdiction of this Hon'ble Court should be exercised as the wife has suppressed the fact of obtaining maintenance under section 125 of the

Criminal Procedure Code. He would then urged before this Court about the merits of the matter so as to claim that there was no domestic relationship since 2004.

3. Having appreciated this submissions what is required to be noted is the operation of the order under section 125 of Cr.P.C. in favour of the Respondents does not create any statutory embargo on the statutory rights of the wife and children to claim relief under the Domestic Violence Act. So far as the claim as regards the absence of the relationship since 2004 is concerned, the same issue can be appreciated upon the recording of evidence.

4. In that view of the matter, no jurisdictional error is noticed. With liberty to the Petitioners to claim adjustment the amount of maintenance to be paid pursuant to the impugned order at an appropriate stage, the writ petition is dismissed.

[NITIN W. SAMBRE, J.]