

VRJ

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

WRIT PETITION NO.543 OF 2023

Fatema Irshad Tade and Ors. ... Petitioners
V/s.
Irshad Mohammad Yunus Tade and Anr. ... Respondents

Mr. Ramkumar Pugaliya with Chandni Shaikih i/by
Parks Legal for the petitioners.

Mr. A.R. Patil, APP for the respondent No.2/State.

CORAM : AMIT BORKAR, J.

DATED : MARCH 6, 2023

P.C.:

1. The respondent No.1/wife has filed present application challenging order dated 7th July 2022, passed by the learned Judicial Magistrate First Class, Manmad City, directing her to file fresh application for maintenance. As the learned Magistrate was of the view that during pendency of the application for issuance of distress warrant for non-payment of maintenance amount of Rs.3,38,000/-, the husband had made certain payments.
2. On perusal of the record, it appears that the wife had filed an application for issuance a distress warrant for recovery of maintenance amount of Rs.3,38,000/-, due from 4th January 2016 to 3rd September 2021.
3. The inquiry which the learned Magistrate was enjoined to

conduct was to ascertain exact amount of dues payable as per the order of maintenance in Criminal Miscellaneous Application No.6 of 2016. Payment made during pendency of such application by husband needs to be deducted from the quantum specified by the wife but it is not necessary that fresh application has to be filed by the wife. The learned Magistrate is, therefore, directed to decide Criminal Miscellaneous Application No.74 of 2018, for issuance of distress warrant after considering payment made by the husband during pendency of the application.

4. The writ petition stands disposed of. No costs.

(AMIT BORKAR, J.)