

AGK

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

WRIT PETITION NO.1307 OF 2023

Rajesh Gayaprasad Gupta

... Petitioner

V/s.

Kanchan Rajesh Gupta & Ors.

... Respondents

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Mr. Rakesh K. Agrawal for the petitioner.

Ms. Krupali Rajani for respondent nos.1 to 3.

Ms. M.R. Tidke, APP for State.

CORAM : AMIT BORKAR, J.

DATED : APRIL 11, 2023

PC.:

1. The writ petition is directed against order dated 14th December 2022 passed by the learned Metropolitan Magistrate, 13th Court, Dadar, Mumbai directing the husband to pay maintenance amount to the wife in person as per order dated 25th April 2022 passed by the learned Additional Sessions Judge, Mumbai in Criminal Miscellaneous Application No.0101948 of 2021.

2. Learned Additional Sessions Judge by the said order directed the husband to pay Rs.75,000/- towards arrears of maintenance before the Trial Court. The Sessions Court granted liberty to respondent nos.1 and 2 to withdraw the amount by filing an application.

3. Learned Metropolitan Magistrate interpreting said order directed the husband to pay amount to the wife directly.
4. Judicial decorum requires that the subordinate Court should respect orders passed by superior courts. Once the superior court passed an order directing parties to do a certain thing in a specified manner, the subordinate court has no power to interpret such order based on object of passing such order. Such concept applies to interpretation of statute. The order of the Sessions Court was clear. There was no ambiguity in the order. Therefore, the learned Magistrate was not justified in passing such order in breach of order of the superior court.
5. On perusal of the order of the Sessions Court, in my opinion, it takes care of both parties. Therefore, the order dated 14th December 2022 passed by the learned Magistrate cannot be sustained. The order dated 14th December 2022 is set aside.
6. Learned advocate for the petitioner states that he will deposit amount of Rs.75,000/- with the learned Magistrate within three days from today.
7. With the above clarification, the writ petition stands disposed of.
8. In case, parties to the proceeding apply for modification of the order based on justifiable reasons, it will be open for the learned Sessions Court to pass appropriate orders on such applications.
9. Learned advocate for the applicant states that despite order

of expeditious hearing, the learned Magistrate is granting unnecessary adjournments. It shall be open for the parties to file appropriate application for early disposal of the complaint. If such application is filed by either of the parties, the learned Magistrate shall pass appropriate order on such application. If the order on such application is adverse, party aggrieved is entitled to challenge such order and the superior Court will have the benefit of reasons for passing such adverse order.

(AMIT BORKAR, J.)