

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 263 OF 2016

Abdul Gaffar Abdul Kadar Manyar,
Age: 60 years, Occ: Nil,
R/o. Shahu Nagar, Jalgaon,
Tq. & Dist. Jalgaon.

...Petitioner

versus

Maherunnisa d/o Majid,
Age: 50 years, Occ: Household,
R/o New Hudco, Dondaicha,
Tq. Sindkheda, Dist. Dhule.

...Respondent

.....
Mr. Govind Kulkarni, Advocate h/f Mr. B.S. Deshmukh, Advocate for
petitioner

.....

CORAM : N.W. SAMBRE, J.

DATE : 21st MARCH, 2016

ORAL ORDER :

The order of maintenance passed by learned Judicial Magistrate, First Class, Jalgaon in Criminal Misc. Application No. 302 of 2008 on 23/09/2013, confirming in revision, awarding maintenance of Rs.1000/- per month, is impugned in the present proceedings.

2. Learned Counsel for the petitioner strenuously urged that during subsistence of first marriage, the respondent by deceiving the present applicant, has married him and as such, in view of definition of 'wife' as is provided in Code of Criminal Procedure, the

respondent is not entitled for grant of maintenance under Section 125 of the Code of Criminal Procedure, which point is lost by the Courts below.

3. Having considered the submissions of learned Counsel for the petitioner, whether the respondent falls within ambit of Section 125 of the Code of Criminal Procedure as defined 'wife' is an issue and could be gone into at appropriate stage. The provisions of Section 125 of the Code of Criminal Procedure are with an intention to address immediate needs women.

4. In my opinion, unless the petitioner discharge burden of proving the said fact that the respondent was not legally wedded wife, no fault could be noticed in the orders impugned. The petition fails, stands dismissed.

[N.W. SAMBRE, J.]