

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

CRIMINAL APPLICATION NO. 2252 OF 2004

Ratnakar s/o Baburao Jadhav

Age : 37 Yrs., Occ. Service,

R/o : N-6,M-2,19/2,Sinhagad

Colony, CIDCO, Aurngabad.

..... APPLICANT

V E R S U S

Sow. Rani @ Kunda Ratnakar

Jadhav, Age : 25 Yrs.,

Occ. Household, R/o : Dadarao

Plot, Parbhani, Homeopathic

College, Jwala Towers,

Near Vakil Colony, Parbhani.

..... RESPONDENT

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Mr. V.D.Sapkal, Advocate for Applicant.

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CORAM : Z.A.HAQ, J.

DATE OF JUDGMENT : 6th DECEMBER, 2016

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ORAL JUDGMENT :

01. Heard Mr. V.D.Sapkal, learned Advocate

for the applicant.

02. The applicant [husband] has assailed the Judgment passed by the Sessions Court dismissing the Revision Application filed by him and maintaining the order passed by the Magistrate, by which the application filed by the non applicant [wife] u/s 125 of the Code of Criminal Procedure is allowed and present applicant [husband] is directed to pay ₹ 800/- [Rupees Eight Hundred] per month to present non applicant [wife] towards the maintenance.

03. According to the applicant [husband], the Family Court has granted decree on 31/12/2001, by which the marriage between the applicant and non applicant is dissolved on the ground that the non applicant is suffering from 'Schizophrenia' and this fact is not considered by the sub-ordinate Courts while up-holding the claim of the non applicant [wife] for maintenance.

04. On going through the Judgment passed by

the sub-ordinate Courts, I find that they have not considered this point. Considering the nature of dispute, I have examined the conclusions in the Judgment passed by the Family Court. The Family Court has recorded that the husband has failed to prove that the illness of wife was concealed from him before marriage was solemnized. The decree for dissolution of marriage is granted on the basis of evidence of Doctor examined on behalf of the husband, who has stated that because of the illness of wife, it would not be possible for the husband to live with her. It can not be said that the wife has been residing separately of her own volition and consequently it can not be said that the wife is not entitled to claim maintenance from the applicant [husband].

05. The sub-ordinate Courts have adverted to the other aspects and have recorded that the non applicant [wife] is not able to maintain herself and that the applicant [husband] is having sufficient source of income to pay the amount of maintenance

as determined by the Court. The learned Advocate for the applicant has not been able to point out illegality or perversity in the findings recorded by the sub-ordinate Courts. I see no reason to interfere with the impugned Judgment.

06. The Criminal Application is dismissed.

07. In the circumstances, parties to bear their own costs.

[Z.A.HAQ, J.]