

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CRIMINAL WRIT PETITION NO.75 OF 2016

(Jayashri d/o Narayan Jadhao @ Jayashri w/o Atul Rathod ..vs.. Atul s/o Kishor Rathod)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATED : 12-04-2016

Heard Shri R.J. Shinde, Advocate for the
petitioner.

The petitioner (wife) has filed application under Section 125 of the Code of Criminal Procedure praying for maintenance. The petitioner had filed an application praying for interim maintenance which came to be allowed by the learned Magistrate by the order dated 16-09-2015 and the respondent (husband) was directed to pay interim maintenance of Rs.4,000/- per month. The respondent challenged the order in revision which is allowed by the Sessions Court.

The Sessions Court has recorded that there is documentary evidence on record which shows that mutual divorce has taken place between the parties and the petitioner (wife) is residing separately since 1999. The Sessions Court has further recorded that the documents on record show that the petitioner (wife) had given up her right of maintenance. In view of the

material on record, the learned Additional Sessions Judge concluded that the order passed by the learned Magistrate granting interim maintenance is not sustainable. The wife will have to prove her claim after leading evidence. The order passed by the learned Additional Sessions Judge does not suffer from any illegality or perversity. I see no reason to interfere with the impugned order. The petition is dismissed.

Considering the nature of dispute, the interests of justice would be sub-served by directing the trial Court to dispose the application filed by the petitioner under Section 125 of the Code of Criminal Procedure till 15-09-2016.

JUDGE

pma