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

**CRIMINAL APPLICATION (APPR) NO.51 OF 2016
AND
CRIMINAL REVISION APPLICATION NO. OF 2017**

Akbar Rannu Mirawale,
Aged about 28 yrs. Occ. Nil,
R/o Shivani (Karanja Road),
Tq. Mangrulpir, Distt. Washim ..APPLICANT

VERSUS

Rehana bee Akbar Mirawale,
Aged 23 yrs, Occ. Household,
R/o C/o Halimabee Shaikh
Buddu Naurangabadi,
Near Babaji Math, Gavalipura,
Akola, Tq. & Distt. Akola ..RESPONDENT

Mr P.D. Sharma, Advocate for applicant;
Respondent served.

CORAM : N.W. SAMBRE, J.

DATE : 22nd March, 2017

ORAL ORDER

None appears on behalf of respondent though duly served.

2. For the reasons stated in the application, the delay is condoned.

Criminal Application (APPR) No.51 of 2016 stands allowed.

3. Heard the revision on merits.

4. By judgment and order dated 29th August, 2015, passed in Petition No.E-140 of 2013, learned Judge, Family Court, Akola, in exercise of

(2)

powers under Section 125 of the Code of Criminal Procedure, directed the applicant to pay maintenance of Rs.3,000/- per month to the respondent from the date of filing of the petition, which order is questioned in the present revision.

5. Mr Sharma, learned Counsel appearing on behalf of the applicant would invite my attention to the certificate depicting disability of the applicant so as to infer that he is not earning substantially to meet with the payment of maintenance of Rs.3,000/- per month. According to him, the applicant is dependent on his father for his own maintenance and the said aspect is not taken into account by the learned Judge of the Family Court. He would then urge that the respondent – wife had voluntarily left the company of the petitioner and as such, she is not entitled to maintenance, as the petitioner is still ready and willing to maintain her.

6. Upon perusal of the impugned judgment and order, it is noted that the disability of the petitioner to the extent of more than 50% is taken into account by the learned Judge of the Family Court. Learned Judge of the Family Court then proceeded to consider the qualification of the present petitioner and inferred that his monthly income could easily be above Rs. 10,000/- and as such, awarded maintenance of Rs.3,000/- per month.

7. While awarding the aforesaid maintenance, the learned Judge of the Family Court was well aware about the qualification and disability of the applicant and as such, the applicant, once having not denied the marriage

(3)

with the respondent, in my opinion, has rightly ordered to pay maintenance of Rs.3,000/- per month. In view thereof, no case for interference is made out. Criminal Revision, therefore, stands rejected.

(N.W. SAMBRE, J.)

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