

VRJ

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

WRIT PETITION NO.3366 OF 2022

Rekha Anandrao Ranbhare	... Petitioner
V/s.	
State of Maharashtra & Ors.	... Respondents

Mr. C.G. Gavnekar a/w Mr. Ashutosh Gavnekar for the petitioner.

Mr. A.R. Patil, APP for the State.

Mr. T.S. Ingale for the respondent.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 14, 2022

PC.:

1. The challenge in this petition is to the order of revisional Court directing mother-in-law to pay an amount of Rs.1,00,000/- towards maintenance to the respondent who is daughter-in-law. On perusal of the impugned order, it appears that the entire discussion is on the point of entitlement but the revisional Court while granting maintenance to the daughter-in-law has not supplied reasons for arriving at conclusion of quantum of amount of maintenance.

2. The factors relevant while at quantum of amount of maintenance is no long *res integra* in view of authoritative pronouncement of the Apex Court in the case of **Rajnesh Vs Neha** reported in (2021) 2 SCC 324.

3. The Apex Court in paragraphs 77 and 93 has laid down, in detail, the criterias for arriving at the amount of maintenance in a proceedings under the Domestic Violence Act.

4. On perusal of the impugned judgment, it appears that the quantum has been arrived at on the basis of presumption drawn by the learned revisional Court. In that view of the matter, it is necessary that the revisional Court should adjudicate quantum of maintenance after taking into consideration the factors laid down in paragraphs 77 and 93 of the judgment in the case of **Rajnesh** (supra).

5. To hold such inquiry, it is necessary for the daughter-in-law and the mother-in-law to file affidavit as contemplated in the form mentioned in the judgment of **Rajnesh** (supra).

6. At this stage, Mr. Gavnekar, on instructions, states that the petitioner has no objection if the respondent no. 2 withdraws amounts referred in paragraph 7 of the order dated 28th October 2021 below Exhibit 4 passed by the learned Magistrate.

7. In that view of the matter, following order:

a. The impugned judgment and order dated 20th July, 2022 passed in Domestic Violence Appeal No.35 of 2021 by the learned Additional Sessions Judge, Ichalkaranji, District Kolhapur is quashed and set aside.

b. The learned Additional Sessions judge, Ichalkaranji, District Kolhapur is directed to decide Appeal No.35 of 2021 afresh considering paragraph 77 and 93 of the Apex Court judgment in

the case of **Rajnish** (supra) and on the basis of affidavits filed by the both parties in terms of annexure as contemplated in the said judgment

c. The parties shall appear before the learned Additional Sessions Judge on 21st November, 2022.

d. The learned Additional Sessions Judge after giving opportunity of hearing and after granting both parties opportunity to file affidavit in terms of the aforesaid judgment shall decide Appeal No.35 of 2021 before 21st December, 2022.

7. The writ petition stands disposed of in above terms.

(AMIT BORKAR, J.)