

PMB

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

WRIT PETITION NO.822 OF 2020

Shubhashish Prabhu Sinha ..Petitioner
vs.
Saumya Sharan and anr. ..Respondents

Mr. Shailesh S. Pathak i/b. Mr. Amit P. Ghag for petitioner.

Ms. Pooja Jalan for respondent no.1.

Mr. R. M. Pethe, APP for State-respondent no.2.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 13, 2022.

P.C. :

1. Heard learned counsel for the parties.
2. Having regard to the concurrent orders passed by the Courts below and for the good and valid reasons set out, I am not inclined to interfere with the orders passed. Learned counsel for the petitioner-husband vehemently submitted that the wife is drawing a salary of almost Rs.70,000/- p.m. which is sufficient to maintain her. It is further contended that the husband is suffering from HIV disease and has lost his job as a Chief Officer in Executive Ship Management Private Limited. He submits that his financial condition is not such that he is in a position to pay maintenance to the wife.

3. The wife had claimed maintenance of Rs.50,000/- for herself and Rs.34,000/- towards her accommodation expenses. The trial Court in paragraph 13 observed that the documents filed by the wife along with document list Exhibit 06 shows that the financial condition of the respondent is very good and sound. It is further observed that his bank statement also shows that huge amount is lying in his bank account. Though, it is the case of the petitioner-husband that he is suffering from disease HIV, it is not his case that he cannot do anything. The certificate on record only demonstrates that the husband is unfit to work as a Chief Officer. The maintenance awarded by the Courts below of Rs.20,000/- cannot be regarded as excessive or irrational in the facts of the present case.

4. Learned counsel for the petitioner-husband relied upon the decision of the Supreme Court in the case of **Rajnish Vs. Neha and another**¹. He submits that as there is no affidavit of disclosure of assets and liabilities filed, therefore, the impugned order is in the teeth of the judgment of the Supreme Court.

5. It is material to note that Criminal Appeal No.392 of 2019 was decided by the Appellate Court on 20.11.2019. The judgment of the Supreme Court is dated 04.11.2020. By then the interim order had already been passed. I see no reason to interfere with the orders passed by the Courts below. The decision in **Rajnish vs. Neha and another** will

¹ (2021) 2 SCC 324

undoubtedly apply to the pending proceedings. It is always open for the petitioner to approach the trial Court and seek such recourse if the changed circumstances so permit, which aspect the trial Court shall obviously decide in the first instance. Learned counsel submits that his condition is not such that he would be in a position to pay the maintenance awarded. It is for the petitioner-husband to approach the trial Court by filing appropriate application contending changed circumstances.

6. I therefore do not find any merit in the writ petition and the same stands dismissed.

(M. S. KARNIK, J.)