

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3882 OF 2019

Narhari Vithalrao Govande

Applicant

Versus

Vandana w/o Narhari Govande & another

Respondents

Ms. P. A. Patil, Advocate holding for Mrs. C. S. Deshmukh, Advocate
for the applicant.

Mr. G. R. Syed, Advocate for respondents.

CORAM : R. M. JOSHI, J.

DATE : 2nd AUGUST, 2023.

PER COURT :

1. It is submitted by learned counsel for the applicant that two different forums passed order of maintenance under provisions of Protection of Women from Domestic Violence Act (hereinafter referred to as "DV Act") and under Section 125 of the Code of Criminal Procedure in favour of respondents. The order passed later in time failed to take into consideration the first order. She has placed reliance on judgment of Hon'ble Apex Court in case of Rajnesh vs. Neha and another, (2021) 2 Supreme Court Cases 324 to submit that maintenance granted under DV Act would be in addition to maintenance under Section 125 of the Code of Criminal Procedure

and that Court needs to take into account maintenance granted in the earlier proceeding.

2. Learned counsel for the respondent opposed the application and supported the impugned order.

3. Perusal of impugned order does not show that the previous order was taken into consideration for the purpose of determination of amount of maintenance granted under DV Act. In such case, the impugned order cannot sustain. Hence, the following order :-

ORDER

- (i) Application is allowed.
- (ii) Impugned order is set aside.
- (iii) The matter is relegated back to the Additional Sessions Judge, Bhokar for decision afresh.

(R. M. JOSHI)
Judge