

VRJ

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

WRIT PETITION NO.664 OF 2022

Mandakini Sukdeo Tumbare ... Petitioner

V/s.

Sukhdeo Shantaram Tumbare and Anr. ... Respondents

Mr. Kishor Patil with Ms. Rukmini Khairnar for the
petitioner.

Mr. Rahul D. Motkari for respondent no.1.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 24, 2023

PC.:

1. The wife has filed present application challenging order dated 9th June 2004 passed by the Revisional Court thereby rejecting the application for maintenance under section 125 of the Code of Criminal Procedure, 1973. The learned Judicial Magistrate First Class by order dated 23rd March 2001 granted maintenance of Rs.7,000/- to the wife. The Revisional Court relying on the maintenance granted in another proceedings allowed the revision application.

2. In view of judgment of the Apex Court in the case of **Rajnesh Vs. Neha**, reported in (2021) 2 SCC 324, mere grant of maintenance in another proceedings *per se* is not a ground for refusing to grant maintenance. The position of law as of today is that the subsequent Court shall take into consideration the

quantum of maintenance granted by the earlier Court.

3. In that view of the matter, considering the order of adjudication of application under section 125, it will be open for the wife to file application under section 127 of the Code of Criminal Procedure, 1973.

4. The learned Judicial Magistrate First Class, Nashik shall consider such application as expeditiously as possible and uninfluenced by the observations made by the learned Sessions Court in the present order.

5. The writ petition is disposed of in above terms. No costs.

(AMIT BORKAR, J.)