

Nikita

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

CRIMINAL REVISION APPLICATION NO.227 OF 2015

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Date: 2023.10.13
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Manju Rynal Tixeria

... Applicant

V/s.

Rynal Tixera

... Respondent

Mrs. Mankuwar Deshmukh for the Applicant

Ms. Manju Rynal Tixeria petitioner present in-person.

Mr. Rynal Tixeria respondent present in-person.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 13, 2023

P.C.:

1. Challenge in this application is to the order dated 2nd February 2015 passed by the Family Court under Section 125 of the Code of Civil Procedure, 1908. The Trial Court passed the order holding that the applicant is a commerce graduate and working on the date when she met with the husband. She was earning Rs.10,000/- The finding is recorded is that due to efforts of wife, the husband lost his job. The Trial Court therefore, denied maintenance to the wife on the ground that she is able to earn and she was responsible for loss of husband's job.

2. In my opinion, maintenance under Section 125 of Code of Criminal Procedure, 1973 cannot be denied on the said ground.

Therefore, it is necessary for the Family Court to reconsider the matter on the quantum of maintenance after giving opportunity to both sides to furnish their affidavits of assets and liabilities as contemplated by the judgment in the case **Rajnish Vs. Neha** reported in (2021) 2 SCC 324 Hence following order:

3. The impugned order dated 2nd February 2015 passed by Family Court in Petition No.354 of 2013, is quashed and set aside.
4. The application is restored to the file of the Family Court
5. Family Court shall adjudicate on the quantum as per the judgment in the case of **Rajnish** (supra). Considering the fact that the application is filed in the year 2013, the Family Court shall decide interim maintenance within three months from today.
6. The husband and wife are present in the Court. They shall appear before the Family Court on 30th October 2023 at 10.30 am.
7. The criminal revision application stands disposed of.

(AMIT BORKAR, J.)