

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

CRIMINAL REVISION APPLICATION NO.356 OF 2023

Sanjana Mohanty ...Applicant

V/s.

Suranjan Mohanty ...Respondent

Ms. Firdous Moosa a/w. Mr. Prakash Mahadik for the Applicant.

Mr. Atul Awat i/b Mr. A. Ansari for the Respondent.

Ms. M. R. Tidke, APP for the Respondent-State.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 5th FEBRUARY, 2024.

P. C.:-

1. By this Revision Application the challenge is to the order dated 14th August 2023 passed by the Sessions Judge by which the Sessions Judge has reduced the monthly maintenance granted to the Petitioners from Rs.1,85,000/- to Rs.1,25,000/-. It appears from the judgment of the Sessions Court that the Sessions Court has taken into consideration the salary slip of June 2023 which was produced on record and on the basis of the said salary slip have reduced amount of monthly maintenance.

2. It is not disputed that the Affidavits of Assets and Disclosures was neither filed before the Trial Court nor before the Sessions Court as per

the mandate of the Apex Court in the case of *Rajnish vs. Neha, AIR 2021 Supreme Court 569*.

3. Considering that the mandate of Apex Court was not followed, which required the parties to file their respective Affidavits of Disclosure even in pending proceedings, the impugned order of the Sessions Court dated 14th August 2023 as well as order of the Trial Court dated 1st February 2021 is quashed and set aside.

4. Ms. Firdous Moosa, learned counsel for the revision applicants would contend that as Revision is filed by the applicant wife, only the order of Sessions Court is liable to be set aside. In my view, as the Trial Court is the first fact finding Court, and the Trial Court has proceeded to grant maintenance without directing the filing of Affidavits of Disclosures, even the order of Trial Court is required to be set aside. It also needs to be noted that if the matter is remanded to Sessions Court to decide on basis of Affidavits of Disclosure, one right of appeal is lost to the parties. As such, the matter is remanded to the Trial Court for deciding the issue afresh after taking into consideration the Affidavit of disclosures of both the parties.

5. In the hearing before this Court the parties were permitted to

tender their respective Affidavits of Disclosure and the same were taken on record. The parties are directed to file the same before the Trial Court which the Trial Court will consider at the time of adjudication of the matter.

6. Revision Application is accordingly disposed of.

(SHARMILA U. DESHMUKH, J.)