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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 6380 OF 2019**

Shri Nahendra Arjun Jagtap ..Petitioner
vs.
Smt. Priya Nahendra Jagtap and anr. ..Respondents

Mr. Dushyant S. Pagare, for petitioner.
Mr. R.M. Pethe, APP for Respondent – State.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 16, 2022.

P.C. :

1. Heard learned counsel for the petitioner. The order impugned is dated 02/04/2011. In the petition for maintenance filed by the respondent-wife under section 125 of the Code of Criminal Procedure, 1973, the Family Court, Pune granted maintenance of Rs.5,000/- per month from the date of petition i.e. 18/07/2008. The petitioner - husband was also directed to pay the litigation expenses of Rs.10,000/- to the wife.

2. The order for maintenance dated 02/04/2011 is challenged in this petition filed on 10/12/2019. Learned counsel for the petitioner submitted that the belated

challenge is on account of the fact that pursuant to the impugned order passed by the Family Court, the parties agreed for amicably resolving the dispute and in fact for a couple of years started residing together. Learned counsel submitted that as the respondent-wife started residing with the petitioner, the question of paying her maintenance would not arise and therefore, the respondent-wife cannot claim maintenance for this period. Learned counsel for the petitioner further submitted that even the consent terms were agreed to be executed in the Marriage Petition No. 460 of 2015 preferred before the Civil Judge, Senior Division, Kalyan. Even part of the alimony that was agreed to be paid to the respondent-wife in terms of the compromise was accepted by the respondent. The respondent-wife however did not fulfill her commitment and refused to sign the consent terms. It is therefore that the petition is belatedly filed is the submission of the learned counsel for the petitioner.

3. In my opinion, these are not grounds which the petitioner can put forth as a sufficient cause explaining the

delay caused in filing this petition. The petition is highly belated and therefore, deserves to be dismissed on the ground of delay and laches.

4. The contention advanced by learned counsel for the petitioner can only be said to be such that it affords a reason for him to contend that the respondent-wife cannot seek enforcement of the impugned order on account of subsequent events. Learned counsel for the petitioner submitted that the respondent-wife has filed execution proceedings for executing the impugned order. It is open for the petitioner to raise all these contentions before the executing Court which shall obviously be considered on its own merits and in accordance with law as it is the contention of the learned counsel for the petitioner that the husband is not liable to pay the maintenance amount in terms of the order passed by the Family Court in view of the change in circumstances. Keeping this liberty open, the petition stands rejected.

(M. S. KARNIK, J.)