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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO. 222 OF 2024**

Vilas Bal Lahane

... Applicant

vs.

The State of Maharashtra and Anr

... Respondents

Mr. Viraj Shelatkar, for Applicant.

Mr. A.R. Metkari, APP for Respondent No.1-State.

CORAM : GAURI GODSE, J.

DATED : 11th JUNE 2024

P.C. :-

1. Office has not placed the papers before me. Learned counsel for the applicant has tendered copy of the Criminal Revision Application which is taken on record.

2. I have heard the learned counsel for the applicant. Perused the impugned order and the papers of the Criminal Revision Application. By the impugned order passed by the learned Magistrate, monthly maintenance of Rs. 3500/- is granted to the wife and Rs. 1500/- each to two children. The said order is confirmed by the learned Session Judge.

3. Learned counsel for the applicant submits that the appellant has no source of income to pay maintenance. He submits that his auto rickshaw, which was his only source of income is attached for recovery of the maintenance amount. He further submits that the respondents are residing separately since 2011 and the evidence on record shows that the wife has accepted that her matrimonial life was without any difficulties till the year 2011. He further submits that thereafter, the wife has left matrimonial home and therefore she is not entitled to claim any maintenance from the applicant.

4. Perusal of the reasons recorded by both the courts shows that the evidence produced by both the parties are appreciated and both the courts have concluded that the applicant had made no provision for residence of the respondents and applicant had also not made any provision for livelihood of the respondents. Both the courts have referred to and relied upon the evidence produced on record to show that there is family property being agricultural land in the name of the applicants' father. It is also a matter of record that the applicant is educated and thus he would be in a position to make payment of maintenance, as the evidence on record shows that the applicant has earning capacity. Thus, the argument of the applicant that since auto-rickshaw belonging to him was attached,

he is unable to make any payment cannot be accepted. There is nothing on record to show that the respondent no. 2 has any other source of income. Both the courts after examining the record and the evidence has passed an order of maintenance. The amount of maintenance is a minimal amount. Hence, I do not see any reason to interfere with the impugned order.

5. For the reasons stated above, I do not find any merits in the application, hence, the application is dismissed.

(GAURI GODSE, J.)