IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 305 OF 2024

Deep Shubhash Bhalodiya   ...Applicant
              Versus
Mansi Deep Bhalodiya   ...Respondents.

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Adv.Samarth S. Krmarkar i/b Mr. Vivek S. Busa for the Applicant.
Adv. Brijesh K. Rathod a/w Jesika Kiran Rathod for Respondent No. 1.
Adv. Geeta Mulekar APP for the Respondent State.

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Coram :   Sharmila U. Deshmukh, J.

Date   : April 30, 2024.

P. C. :

1. Heard.

2. By this Petition the challenge is to the order dated **21st February, 2024** passed by the Appellate Court dismissing the Appeal for want of prosecution as the Applicant and his advocate were absent

3. Learned counsel for the Applicant submits that the Applicant and the advocate were not present on one date of hearing and immediately thereafter the order dismissing the Appeal for non-prosecution came to be passed. He would further submit that due to the dismissal of the Application, distress warrant is issued for recovery

of amount of maintenance.

4. *Per contra,* learned counsel for the Respondent would submit that as the arrears of maintenance were not paid, the distress warrant has been rightly issued. The rojnama which is annexed to the Petition is incomplete rojnama which does not clear the picture as to the presence of the Applicant and his Advocate. It needs to be noted that in the impugned order dismissing the Appeal for non prosecution, the Appellate Court has noted that the Applicant and his Advocate is continuously absent. There is no material which is annexed atleast at this stage to disbelieve the said noting of the Appellate Court.

5. Learned counsel for the Applicant submits that the complete copy of the rojnama will be annexed to show the presence of the Applicant and his Advocate. Let the copy of the rojnama be tendered on the next date of hearing. Let the copy of the Petition along with the copy of the Application be served upon the learned counsel for the Respondent.

6. Stand over to **2th May, 2024**.

[Sharmila U. Deshmukh, J.]