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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO.108 OF 2004

Anna s/o Asaram Pakhare,
Age: 32 years, Occ: Agri.,
R/o. Daregaon (Pakhare),
Post. Ladsawangi,
Tq. & Dist. Aurangabad. ..APPLICANT

VERSUS

1. Alkabai w/o Anna Pakhare,
Age: 27 years, Occ: Household,
R/o. C/o. Sukhdeo Natha Dandge,
At Post Varud,
Tq. & Dist. Aurangabad.
2. The State of Maharashtra. ..RESPONDENTS

Mr Ganesh Patnurkar, Advocate h/f Mr S.M. Vibhute,
Advocate for applicant;
Mr P.M. Gaikwad, Advocate for respondent No.1;
Mr N.T. Bhagat, A.P.P. for respondent No.2

CORAM : N.W. SAMBRE, J.

DATE : 1st SEPTEMBER, 2016

ORAL JUDGMENT :

Present criminal revision application is
by the applicant-husband questioning the order of
enhancement in exercise of powers under Section 127
of the Code of Criminal Procedure from Rs.350/- per

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month to Rs. 600/- per month.

2. Learned Counsel for the applicant would urge that initially the petition being Petition No. E-306 of 1997 was filed on 31st January, 1997 claiming the maintenance under Section 125 of the Code of Criminal Procedure before learned Family Court, Aurangabad, which came to be allowed, by an order dated 22nd January, 1998 granting maintenance of Rs.300/- per month. While doing so, learned Family Court considered the source of income of present applicant as that of income from agricultural source i.e. to the tune of four acres of land.

3. The petition under Section 127 of the Code of Criminal Procedure being Petition No. 170 of 2000 was filed on 31st January, 2000, which came to be allowed by learned Family Court, vide an order dated 31st August, 2000 enhancing maintenance of Rs.350/- per month from Rs.300/- per month i.e. enhancement of Rs.50/- per month. Thereafter, again

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the respondent-wife moved Criminal Misc. Application No. 57 of 2003 before learned Family Court, Aurangabad seeking enhancement. The enhancement was ordered by the Family Court, on 10th November, 2003, enhancing the maintenance by Rs,.250/- per month and as such, awarded total maintenance of Rs.600/- per month. The entitlement of maintenance by respondent-wife is not questioned. What is questioned is, without any change in the circumstances, the enhancement is granted, which is contrary to the scheme of Section 127 of the Code of Criminal Procedure.

4. Learned Counsel for the applicant would urge that the source of income of the applicant is at all not taken into account and other financial liabilities.

5. In my opinion, the fact remains that the enhancement under Section 127 of the Code of Criminal Procedure was sought after three years from the date of last enhancement granted under

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Section 127 of the Code of Criminal Procedure. The source of income of the present applicant qua agricultural land, which has irrigation potentiality is very much taken into account. This change in the circumstances as could be inferred as provided under Section 127 of the Code of Criminal Procedure in the present case is rise in living index i.e. increase in the cost of living.

6. In view thereof and having regard to the fact that the order of enhancement is holding the field since 2003 and there was no interim order operating so as to grant benefit to the applicant to pay maintenance of enhancement, in my opinion, no case for interference after period of 13 years, in revisional jurisdiction, is made out. As such, criminal revision application fails and stands rejected.

(N.W. SAMBRE, J.)