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

CRIMINAL WRIT PETITION NO.1086 OF 2016

Suadarshan s/o Baburao Rajnale,
Age : 48 years, Occu.Agri.,
R/o Satala (Dh), Tal. Ahmedpur,
Dist. Latur

..PETITIONER

VERSUS

1. The State of Maharashtra;
2. Rajashri w/o Sudarshan Rajnale,
Age : 44 years, Occu. Household,
R/o Satala (Dh) Tal. Ahmedpur,
Dist. Latur

..RESPONDENTS

Mr S.B. Madde, Advocate for petitioner;
Mr C.V. Dharurkar, Addl. Public Prosecutor for respondent no.1

CORAM : N.W. SAMBRE, J.

DATE : 31st August, 2016

ORAL ORDER :

By an order dated 7th December, 2009, respondent no.2 – wife was awarded maintenance of Rs.1,000/- per month, of which enhancement was sought in Criminal Application No.5 of 2014 under section 127 of the Code of Criminal Procedure. The said application came to be allowed by the Judicial Magistrate First Class, Ahmedpur, vide order dated 29th October, 2014 enhancing maintenance from Rs.1,000/- to Rs.5,000/- per month.

2. The order dated 29th October, 2014 was questioned in a revision before the Additional Sessions Judge, being Criminal Revision No.11 of 2015, which also came to be dismissed on 1st August, 2016. As such,

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present petition.

3. Learned Counsel appearing on behalf of the petitioner – husband, while trying to make out a case for indulgence of this Court in extraordinary jurisdiction, would invite attention of this Court to the settlement deed executed between the petitioner and respondent no.2, wherein the petitioner has parted with land Gat No.118, to the extent of 1 Hectare and 7 R to the respondent – wife for her maintenance. He would then submit that a house was also provided to the respondent for the purpose of residence, which is not at all taken into account by the Court below. In addition to above, he would urge that he is not owner of the vehicle tractor bearing registration No.MH - 24 - D-0610, as is claimed in in the application and as such, the same cannot be formed to be basis for enhancement of compensation.

4. If the orders of the Magistrate and the learned Sessions Judge concerning enhancement of maintenance are perused, it is required to be noted that, it is already brought on record that the respondent-wife is not keeping good health. It is then required to be noted that she is also not permitted to cultivate the land which was given to her and in fact, she is required to stay in a rented premises. She has also produced on record Doctor's prescription and other medical papers, so as to demonstrate that she is required to undergo treatment for her ailment, for which she is required to spend substantial amount.

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5. So far as the contention of the petitioner that he is not owner of the tractor in question is concerned, he has hardly brought any evidence to that effect on record demonstrating that he is not owner of the said tractor. Both the Courts below, in my opinion, have rightly held that the petitioner is owner of the said tractor, in absence of evidence to the contrary.

6. The Courts below have also taken into account the agreement of purchase of land to the extent of 42 R between one Murlidhar and the petitioner, executed on 6th June, 2013 for a valuable consideration. Apart from above, after the death of the mother of the petitioner, he being the only legal representative, had succeeded her property and as such, there is increase in the income of the petitioner.

7. In view of above, in my opinion, no case for indulgence in extraordinary jurisdiction is made out. Criminal Writ Petition lacks merit and stands rejected.

(N.W. SAMBRE, J.)

amj