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

CRIMINAL REVISION APPLICATION NO. 278 OF 2014

Bhausahab s/o Sampat Khillare,
Age: 60 years, Occ: Pensioner,
R/o. Kannad, Tq. Kannad,
District Aurangabad. ..APPLICANT

VERSUS

Kalabai w/o Bhausahab Khillare,
Age: 55 years, Occ: Household,
R/o. C/o. Sachin Raghunath Dabhade,
78, N-7, Near Mukhul Mandir School,
Cidco, Aurangabad & anr ..RESPONDENTS

Mr D.R. Adhav, Advocate for applicant;
Mr A.P. Bhandari, Advocate for respondent No.1;
Mr R.V. Dasalkar, A.P.P. for respondent/State

CORAM : N.W. SAMBRE, J.
DATE : 24th August, 2016

ORDER :

The applicant was working as a driver in the Sub-division office of Zilla Parishad, Kannad and has retired from the service.

2. It is the case of the present applicant that, he was married to respondent No. 1 and since

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the differences arose, pursuant to the application moved by present respondent under Section 125 of the Code of Criminal Procedure, maintenance of Rs. 900/- p.m. was ordered, which was enhanced pursuant to the provisions of Section 127 of the Code of Criminal Procedure to Rs. 1,500/- p.m. Initially, award of maintenance was of Rs. 700/- p.m., which was enhanced to Rs. 900/- p.m. vide order dated 16/07/2008. Further request for enhancement of maintenance from Rs. 900/- p.m. to Rs. 10,000/- p.m. was made in Criminal Misc. Application No. 102 of 2010. The basis for seeking enhancement of maintenance was the income of applicant in the form of salary and from agricultural source, which was stated to be tune of Rs. 20,000/- p.m.

3. The said application was objected by the present applicant on the ground that his daughter Lata is not married and there is hardly any evidence produced so as to substantiate the claim in regard to the medical expenses.

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4. Pursuant thereto, learned Family Court, vide order dated 5th June, 2013 observed that the claim for enhancement since was not proved, rejected the application.

5. In Revision No. 125 of 2013, by an order dated 3rd September, 2013, the matter was remanded back to the Family Court to consider the matter in proper perspective.

6. The Family Court thereafter passed an order on 30th October, 2013 enhancing the maintenance of Rs. 1,500/- p.m. from the date of application i.e. from 10th December, 2010. The said order was subject matter of challenge before this Court in Criminal Revision at the behest of present applicant and also at the behest of respondent-wife seeking enhancement. The matter was again remanded back with observations that the issue of jurisdiction to be decided vide order dated 28th July, 2014.

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7. The Family Court, vide order 18th September, 2014 declared that the Family Court has jurisdiction to try the matter. As such, the present revision application.

8. The learned Counsel for the applicant while trying to make out a case so as to question the jurisdiction of Family Court would urge that, since the present respondent-wife is residing at Galle-boargaon, Matewadi, Tq. Khultabad, Dist. Aurangabad, the jurisdiction of Family Court is ousted as the same place is within the jurisdiction of the Court learned Magistrate at Khultabad. He would urge that the service was effected on the respondent in H.M.P. No. 129 of 2016 on the aforesaid address, which could be considered as proved so as to infer that applicant is not residing within the jurisdiction of Family Court, Aurangabad. According to him, in view of above, the findings recorded are liable to be upset.

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9. Mr Bhandari, learned Counsel for respondent No. 1, while supporting the order of learned Family Court declaring that it has jurisdiction to try the case, would urge that the Family Court after considering pros and cons of the matter, particularly, notification dated 15th February, 1993, the area within the Municipal Corporation of city of Aurangabad and other factual matrix. He would then urge that there is no substance in the submission made by learned Counsel for applicant and revision needs to be rejected, as it is the intention of the applicant to prolong the matter and to avoid the payment of enhanced maintenance.

10. Having bestowed my thoughts to the submissions made, it is required to be noted that the issue qua jurisdiction of the Family Court to try the claim of the respondent-wife for enhancement was gone into by the said Court particularly in the light of notification whereby the jurisdiction of the Family Court was decided.

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It is required to be noted that first notification qua jurisdiction of the Family Court, Aurangabad is dated 5th February, 1993 and the Family Court has a jurisdiction to try all matters which have occurred within the local limits of area comprising of Municipal Corporation of City of Aurangabad, area of jurisdiction of City and Industrial Development corporation and the area under the Aurangabad Cantonment Board.

11. The second notification dated 7th May, 1997 shows that local limits of Family Court was increased to the entire area of Aurangabad district, however, in the light of last notification dated 10th February, 2004 the second notification of 1997 was cancelled and again first notification dated 15th February, 1993 was given effect.

12. Learned Family Court then observed that when the first order of award of maintenance was

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passed by the Family Court, present applicant has not raised any objections as regards the jurisdiction and it is only with an intention to prolong the matter with an intention to not to honour the statutory responsibility of payment of maintenance.

13. It is worth to mention here that the Supreme Court, time and again has observed that the matrimonial proceedings including that of proceedings for award of maintenance are required to be filed and entertained by such Courts which are convenient to the wife.

14. Apart from above, the point as regards the service of notice in H.M.P. No. 129 of 2016 at the address of Galle-boargaon, Matewadi, Tq. Khultabad, Dist. Aurangabad is concerned, in my opinion, the said issue was neither canvassed nor raised before the Family Court at the relevant time.

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15. Apart from above, it is required to be noted that from the repeated round of litigation against the order of Family Court, prima facie impression could be that the applicant is not interested or rather is trying to avoid the statutory responsibility of payment of maintenance amount.

16. It can be easily inferred from the record that he being an employee of the Zilla Parishad in the capacity of driver must be earning lumpsum Rs. 15,000/- p.m. It is also not in dispute that he owns agricultural land.

17. In that view of the matter, it will be appropriate, in my opinion, to observe that the applicant herein, till the application for enhancement of maintenance is decided, shall continue to pay maintenance of Rs. 1,500/- p.m. to the respondent-wife.

With the above observations, it is ruled in favour of respondent-wife that the Family Court

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has jurisdiction to deal with the matter.

As such, Criminal Revision Application
fails and stands dismissed.

(N.W. SAMBRE, J.)

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