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

CRIMINAL REVISION APPLICATION NO.247 OF 2015

1. Anuradha w/o Ravindra Irale,
Age : 49 years, Occu. Household,
R/o N-4, B-Sector, Plot No.7-H,
CIDCO, Aurangabad
2. Davdatta s/o Ravindra Irale,
Age : 10 years, Occu. Education,
Under guardian of applicant no.1 ..APPLICANTS

VERSUS

Ravindra s/o Daulatrao Irale,
Age : 52 years, Occu. Govt. Service,
R/o N-4, Plot No.74, B-Sector,
CIDCO, Aurangabad ..RESPONDENT

Mr R.N. Chavan, Advocate for applicants;
Mr B.A. Dhengle, Advocate for respondent

CORAM : N.W. SAMBRE, J.

DATE : 5th October, 2016

ORAL ORDER :

In exercise of powers under section 127 of the Code of Criminal Procedure, the learned Principal Judge, Family Court at Aurangabad, vide order dated 21st September, 2015, passed in Criminal Misc. Application No.63 of 2014, enhancing the maintenance payable to the son of the applicant and respondent from Rs.2,000/- to Rs.4,000/- per month with effect from the date of filing of the application, i.e. 20th September, 2015.

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2. By relying upon the judgment of the Apex Court, in the matter of **Jaiminiben Hirenbai Vyas & anr. vs. Hirenbai Rameshchandra Vyas & anr.**, reported in **2015 ALL MR (Cri) 376 (S.C.)**, the learned Counsel appearing on behalf of the applicants submits that without recording any reasons, the court below cannot order payment of enhanced maintenance from the date of the application, as the same is an exception to the general order, i.e. maintenance to be paid from the date of the application.

3. Learned Counsel would then urge that no reasons whatsoever are reflected in the impugned order, for making the order effective from the date of the order and not from the date of the application.

4. The claim is resisted by the learned Counsel appearing on behalf of the respondent, on the ground that it is after considering all the facets of the matter, particularly the accommodation provided by the respondent – husband, maintenance of Rs.5,000/- paid to applicant no.1 and the other son is major, the order came to be passed. According to him, no interference is called for.

5. Having bestowed my thoughts to the submissions made, it is required to be noted that the order of maintenance could be made applicable from the date of the application or from the date of passing order, provided there are specific observations to that effect made by the learned court below. In the present case, what is noticed is that the learned Principal Judge, Family Court, Aurangabad, while granting claim

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under section 127 of the Code of Criminal Procedure for enhancement, has made the enhanced amount of maintenance payable from the date of the order and not from the date of the application. It is, no doubt, true that the court is empowered to pass such an order. The Apex Court, while considering the above referred claim in the matter of Jaiminiben (supra), in paragraph 6 of the said judgment, has observed thus :-

“The provision expressly enables the Court to grant maintenance from the date of the order or from the date of the application. However, Section 125 of the Cr.P.C. must be construed with sub-section (6) of Section 354 of the Cr.P.C. which reads thus :

“354 (6) Language and contents of judgment – Every order under Section 117 or sub-section (2) of Section 138 and every final order made under Section 125. Section 145 or Section 147 shall contain the point or points for determination, the decision thereon and the reasons for the decision.”

Therefore, every final order under Section 125 of the Cr.P.C. [and other sections referred to in sub-section (c) of Section 354] must contain points for determination, the decision thereon and the reasons for such decision. In other words, Section 125 and Section 354 (6) must be read together. “

6. In view of above, in my opinion, without disturbing the order passed by the learned Principal Judge, Family Court, Aurangabad, the matter is remitted back to the Family Court, Aurangabad only to the extent of

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providing reasons for making the order effective from the date of the order or from the date of the application, in the light of the observations of the Apex Court, in the matter of Jaiminiben (supra).

With above observations, Criminal Revision Application stands disposed of.

(N.W. SAMBRE, J.)

amj