



ORDER BELOW EXH.22 CRI.M.A.NO.242/2018

Prabhavati Vs. Raviprakash

This application is moved by Non-applicant for transferring the present case to the competent Court having jurisdiction to try and decide the case. It is contention of the Non-applicant that, during the course of the evidence the applicant had admitted that, she resides at Latur. Further it is contended that, alleged incident had not taken place within jurisdiction of this Court. Therefore, this Court has no jurisdiction to entertain the maintenance application. Hence, prayed to allow the application.

2] The applicant resisted this application by filing her say at Exh.23 on the ground that her parental house is at village Halgara Tq. Nilanga Dist. Latur. But on count of service of her father and for sake of education of her son they have temporarily shifted at Latur. But village Halgara is their native. Therefore, this Court has jurisdiction to entertain this case. Hence, prayed to reject the application.

3] Heard both Ld. Advocates for the respective parties. Perused the material on record. Before advertng to the merits of the case it is necessary to refer here legal provision of 126 of Cr.P.C. Hence, Sec.126 of Cr.P.C. is reproduced here-in-under:

126. Procedure: (1) Proceedings under section 125 may be taken against any person in any district-

- (a) where he is, or
- (b) where he or his wife resides, or
- (c) where he last resided with his wife, or as the case may be, with the mother of the illegitimate child.

4] On perusal of cause title and affidavit of the applicant on the record shows that, she while filing the maintenance proceeding was residing at village Halgara, Tq. Nilanga Dist. Latur, which is her parental place. On reading Sec.126 of Cr.P.C. it can be seen that nowhere it is mentioned that the applicant can institute maintenance proceedings u/Sec.125 of Cr.P.C. against her husband from her place of permanent residence only. Likewise the language of Sec.126 of Cr.P.C. also does not restrict the applicant from instituting maintenance proceeding at her temporary residence. Therefore, as per legal interpretation application u/Sec.125 of Cr.P.C. can be instituted by the applicant at her temporary residence as long as it is not a casual visit and the 'residence' mentioned in law includes temporary stays. That means the applicant can institute proceedings from her permanent as well as temporary place of residence. Hence, in view of above said discussion this court has jurisdiction to try, entertain and decide the present case. Accordingly, I pass the following order:

ORDER

Application at Exh.22 is hereby rejected.

(R. D. Kharate)

Judicial Magistrate, F.C., Nilanga

Date: 07/02/2025