

Criminal Writ Petition No.664 of 2014

Versus

Shri. Shankarrao G. Shinde, Advocate, for petitioner.

Shri. Gajanan S. Kadam, Advocate, for respondent No.1.

Shri. U.H. Bhogle, Additional Public Prosecutor, for
respondent No.2.

CORAM: T.V. NALAWADE, J.

DATE : 17th JULY 2015

ORDER:

1) The petition is filed to challenge the judgment and order of Criminal Revision No.58/2012 delivered by the learned Sessions Judge Nanded. The Sessions Court has set aside the order made by the Judicial Magistrate in RCC No.339/2012. The Judicial Magistrate had returned the complaint for presentation in proper Court by holding that the Judicial Magistrate had no territorial jurisdiction over the offence. Both the sides are heard.

2) It is the case of the present petitioner, accused that in one proceeding (HMP No.64/2011) the wife had shown her place of residence at Pathrad (Hissa), Tahsil Mukhed, District Nanded and now she has shown her place of residence as Sangvi (Bk.), Tahsil and District Nanded. He submits that in one proceeding she had contended she was residing with her father and now she is contending that she is residing with her brother and it is not clear as to where she has permanent place of residence.

3) The provision of Section 182 of the Code of Criminal Procedure is made for benefit of such ladies as they are not expected to go to the place where they last cohabited with their spouses in the past. To avoid harassment to such ladies this provision is made and the Sessions Court has considered this provision. It will be a matter of evidence and it can be considered only during trial as to whether she has taken up permanent place of residence at Sangvi. It was for the Magistrate to take cognizance of the matter and on this ground the Judicial Magistrate ought not to have returned the proceeding.

4) No fault can be found in the order made by the learned Sessions Judge. In the result, the petition stands dismissed.

Sd/-
(T.V. NALAWADE, J.)

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