

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
Criminal Appellate Jurisdiction.**

Criminal Application No. 5655 Of 2014.

Jaishri Pralhad Shinde.
Age : 25 Years., Occ.: Education.
R/o.: Room No.14,
Girls Hostel No.3,
Dr. Babasaheb Ambedkar
Marathwada University,
Aurangabad.

}

Applicant.

Versus.

Pralhad Ambadas Shinde.
Age : 57 Years., Occ.: Service.
R/o.: Panchayat Samiti Colony,
Jafrabad, District – Jalana.

}

Non-Applicant.

Appearance =>

Mr. Pawan Pawar, Advocate for the Applicant.

Mr. R.R. Deshmukh, Advocate h/for Mr. R.B. Deshmukh,
Advocate for the Non-Applicant.

CORAM : V.M. Deshpande, J.

DATE : 30th March, 2015.

Per Court :-

By filing present Application, the applicant prays that, Criminal Misc. Application No.89 Of 2012 pending on the file of the Judicial Magistrate, F.C., Jarfrabad, Dist. Jalna be transferred on the file of the Judicial Magistrate, F.C., Aurangabad, for disposal according to law.

[2] Heard Mr. Pawan Pawar, learned counsel for the Applicant and Mr. R.R. Deshmukh, Advocate h/for Mr. R.B. Deshmukh, learned counsel for the Non-Applicant.

[3] The daughter was required to file an application under Section 125 of the Code of Criminal Procedure for grant of maintenance allowance against her father since her father – Non-Applicant was not providing the good lifestyle to his daughter.

[4] At the time of filing of such application under Section 125 of the Code of Criminal Procedure, the daughter was residing at Jafrabad, Dist. Jalna however, subsequently, she was required to shift herself at Aurangabad to pursue her higher study in M.Phill.

[5] There is no dispute that, presently, the applicant is getting interim maintenance @ Rs.1000/- per month.

[6] Application is opposed by Mr. R.R. Deshmukh, learned counsel for the Non-Applicant on the ground that, Non-Applicant is suffering from paralysis.

[7] No medical certificate is filed alongwith affidavit filed by Varsha Pralhad however, at the time of hearing, across the bar, photostat copy of certificate issued by Dr. S.S. Jarwal, Jarwal Hospital, Jafrabad, District – Jalna is placed on record. Same is taken on record and marked as “X” for identification purpose.

From the said certificate it is clear that, Non-Applicant – Pralhad is not indoor patient but, he is attending the O.P.D. Thus, it is clear that Non-Applicant is able to move himself. Further the learned counsel for the applicant submitted that, Non-Applicant – Pralhad, who is serving as Peon in the Zilla Parishad is attending his duty at Khasgaon, Tal. Jafrabad, District – Jalna, which clearly shows that, the Non-Applicant can move and paralysis cannot be a reason for opposing the application for transfer.

[8] The applicant is required to stay at Aurangabad. She is getting Rs.1000/- per month by way of interim maintenance. She is pursuing her education in M.Phill. Distance between Jarfrabad, Dist. Jalna and Aurangabad is 110 K.M. Obviously, to attend the proceeding at Jarfrabad, Dist. Jalna requires to incur the expenses. She is getting meager amount of maintenance.

[9] Considering the overall aspects of the matter, it will be better to transfer Criminal M.A. No.89/2012 pending on the file of the Judicial Magistrate, F.C., Jarfrabad, Dist. Jalna to the Chief Judicial Magistrate, Aurangabad. Hence, I pass the following order :-

ORDER

(i) Criminal Application No.5655/2014 is allowed.

(ii) Criminal Misc. Application No.89/2012 pending on the file of the Judicial Magistrate, First Class, Jarfrabad, Dist. Jalna is transferred to the file of the Chief Judicial Magistrate, Aurangabad, for disposal according to law.

(iii) The Chief Judicial Magistrate, Aurangabad shall allot the said case to any other Judicial Magistrate, First Class, or to conduct the said case himself.

(V.M. DESHPANDE, J.)