

Mr. Pandit Kasar for Petitioner.

P.C. :

2. By this Petition under Article 227 of the Constitution of India, petitioner has challenged the judgment and order dated 27.03.2018 passed by the learned Judicial Magistrate (First Class), Sinnar below exhibit-24 in Criminal Miscellaneous Application No.480 of 2017. By that order, the learned trial Judge has rejected the application filed by the petitioner challenging the competency and jurisdiction of the Court of Judicial Magistrate (First Class) at Sinnar to entertain and try the main application. The learned trial Judge held that in view of Section 27(1)(a) of the Protection of Women from Domestic Violence Act, 2005 (for short 'D.V.Act') as the respondent No.1 is temporarily residing at Sinnar, the Court at Sinnar has jurisdiction to entertain and try the proceedings.

3. In support of this Petition, Mr. Kasar strenuously contended that the marriage between the parties was solemnized at Sangamner. The parents of the first respondent are permanent residents of Sangamner. Petitioner is gainfully employed and is serving at Pune. He submitted that the parents of the first respondent are well to do persons and in fact they are carrying on hotel business. He has invited my attention to the

documents from pages 43 to 46 which substantiate his case that parents of respondent No.1 are having immovable properties in Sangamner. He submitted that it is not the case of the first respondent that her parents have no place at Sangamner. He submitted that the documents clearly indicate that respondent No.1 is not staying even temporarily in Sinnar. If the first respondent is permitted to file complaint merely on the ground that she is temporarily residing in Sinnar, it will not only amount to misusing the provisions of Section 27(1)(a) of the D.V.Act but will also defeat the purpose of enacting Section 27(1)(a) of the D.V.Act. He also relied upon the decision of this Court in ***Vijay Sudhakar Patil Vs. Asha Vijay Patil, 2015 (1) Mh.L.J. (Cri) 43*** and in particular, paragraph 8 thereof. He submitted that as no cause of action had arisen within the limits of Sinnar, first respondent ought to have instituted proceedings under D.V.Act either at Sangamner or Pune but in any case not in Sinnar. He, therefore, submitted that Petition requires consideration.

4. I have considered the rival submissions advanced by Mr. Kasar. I have also perused the material on record. The learned trial Judge has considered the documents which are relied even in the present Petition in paragraph 6. The learned trial Judge has also considered the decision in ***Vijay Sudhakar Patil (supra)***. Section 27(1)(a) of the Act reads thus,

“27. Jurisdiction.-(1) The Court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which-

(a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or”

5. In paragraph 9, the learned trial Judge has noted that her temporary residence is “C/o. Mr. Sanjay Tingare, Kranti Chowk, Sinnar, Taluka Sinnar, District Nashik”. In paragraph 11, the learned trial Judge noted that in the main application, respondent No.1 specifically

contended that after January 2017, she is residing separately from the petitioner. In her affidavit in support also, she specifically contended that due to compelling circumstances and non availability of accommodation for her, she is residing along with her maternal uncle at Sinnar. For the reasons recorded in paragraph 11 of the impugned order, I do not find that any case is made out for interfering with the impugned order. Hence, Petition fails and the same is dismissed.

(R. G. KETKAR, J.)

Minal Parab