

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-44298-2017

Date of decision:-10.7.2018

Gulab Singh

...Petitioner

Versus

Surjit Kaur

...Respondent

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Ms.Ritam Aggarwal, Advocate
for the petitioner.

H.S. MADAAN, J.

Petitioner – Surjit Kaur (herein – respondent) has filed an application under Section 125 Cr.P.C. claiming monthly maintenance allowance from her husband Gurlab Singh (herein – petitioner); that application was filed by her in the Court of Chief Judicial Magistrate, Bathinda; that her husband Gulab Singh, who is petitioner before this Court is seeking transfer of that petition titled 'Surjit Kaur Versus Gulab Singh' under Section 125 Cr.P.C. from the Court of Chief Judicial Magistrate, Bathinda to the Court of competent jurisdiction at Mansa.

According to the present petitioner, the respondent is permanent resident of Mansa, However, she has chosen to file application in question in the Court at Bathinda. The petitioner before

this Court contends that he is aged about 70 years and it is difficult for him to go to Bathinda on each and every date of hearing, therefore, the application be transferred to the Court at Mansa.

Notice of the petition was given to respondent, who was served but did not put in appearance.

I have heard learned counsel for the petitioner besides going through the record.

As per Annexure P-1, which is copy of application under Section 125 Cr.P.C. for grant of maintenance filed by Surjit Kaur against her husband Gulab Singh, she had given address of Mansa but thereafter mentioning her address of Bathinda i.e. c/o Jiwant Singh son of Chand Singh, resident of Amarpura Basti, Street No.2, House No.25797, Bathinda. Her husband (present petitioner) is raising objection that as a matter of fact, she is permanent resident of Mansa and she has filed an application in Court at Bathinda just to harass him, who is an old man facing great difficulty in appearing in the Court at Bathinda. However, Section 126 Cr.P.C. provides procedure for filing and disposal of application under Section 125 Cr.P.C. It dilates that 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.

From this definition, it is clear that the applicant can file the application in a Court having jurisdiction over the area where she

resides. The applicant has given her present address as c/o Jiwant Singh son of Chand Singh, resident of Amarpura Basti, Street No.2, House No.25797, Bathinda. Therefore, she has got a right to file an application in the Court of competent jurisdiction at Bathinda. There is no reason to transfer the application to the Court at Mansa only for the reason that respondent Gulab Singh is statedly an old person and as per his version facing difficulty in commuting from Mansa to Bathinda to attend the dates of hearing. It has to be kept in mind that respondent - applicant Surjit Kaur is also an old woman and it would be difficult for her to travel from Bathinda to Mansa, if case is transferred to the Court of competent jurisdiction at Mansa.

The petition being without merit stands dismissed accordingly.

(H.S.MADAAN)
JUDGE

10.7.2018
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No