



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Criminal Writ Petition No. 477 of 2023

Nilesh S/o Lokchand Meshram,
Aged about - 42 years,
Occupation – Service,
R/o – Jijau Nagar, Near Chintawar
Kerosene Depot, Arni,
Taluka – Arni, District – Yavatmal.

... Petitioner

... Versus ...

(1) Lokchand S/o Maroti Meshram,
Aged about - 75 years,
Occupation – Nil,

(2) Shakuntalabai W/o Lokchand Meshram,
Aged about - 65 years,
Occupation – Household
C/o – Dhanraj Tirpude's house,
R/o – Plot No. 142 Sankalp Nagar,
Wathoda Layout, Nagpur.

... Respondents

Mr. I. V. Tambi, Advocate for the petitioner

Mr. Harshwardhan Chavhan, Advocate for respondents

CORAM : ANIL L. PANSARE J.

DATED : 24-8-2023

ORAL JUDGMENT

Rule. Rule made returnable forthwith. With consent, the
petition is heard finally.

2. The petitioner is son of respondent no. 1. Respondent no. 2 is stepmother of the petitioner. The respondents, in the capacity as parents, had filed application under Section 125 of the Code of Criminal Procedure, 1973 (Code) seeking maintenance from their son. The learned Magistrate was pleased to grant interim maintenance amounting to Rs. 4,000/- in favour of respondent no. 1. The cause title of the application filed by the respondents before the trial Court indicates that the petitioner/original non-applicant is/was resident of Arni, District Yavatmal. Proceedings, however, have been filed before the Family Court, Nagpur.

3. Learned counsel for the petitioner has relied upon the judgment of Hon'ble Supreme Court in the case of ***Vijay Kumar Prasad Vs. State of Bihar and ors [(2004) 5 SCC 196]*** wherein the Court held that the parents will have to initiate proceedings where person from whom maintenance is sought lives or "is".

4. Learned counsel for the respondents fairly submits that the petition and the application under Section 125 of the Code ought to have been filed before the Court at Yavatmal. He seeks liberty to approach the appropriate Court. Liberty is granted with following order.

- (i) The petition is allowed.
 - (ii) Order dated 27-9-2022 passed by the Family Court, Nagpur in Petition No. E-396/2021 is quashed and set aside being without jurisdiction with liberty to the respondents to approach the appropriate Court for appropriate remedy.
5. Rule is made absolute in above terms.

(Anil L. Pansare, J.)

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