

evils, that are eating into the vitals of the nations and pose a threat to its stability, but yielded casually and capriciously the power may turn into an engine of oppression

posing a threat to the democratic way of life itself. The need for utmost good faith and cautions required while exercising of this powers.

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### TERRITORIAL JURISDICTION

#### NEED OF AMENDMENT TO SECTION 125 AND 126 OF CRIMINAL PROCEDURE CODE:

*By*

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Now the latest trend of judiciary is justice delivery to the door steps of the victim. This is how the judgments have come up and like so even by going through a News paper and by receiving a post-card, the Constitutional Courts *i.e.*, (Hon'ble Supreme Court of India and Hon'ble High Courts of India) are taking cognizance of the matters *suo moto* by treating them as *suo moto* litigation and public interest litigation, like which the justice is being delivered to the victims who are even not approaching the Courts by filing the proper petitions before the respective Courts.

With this backdrop, I would like to share my views about the recent judgment delivered by their Lordships Doraiswamy Raju and Arijit Pasayat in Vijayakumar Prasad v. State of Bihar and others, which was reported in 2004 (1) ALD (Crl.) 736 (SC), with regard to the Territorial jurisdiction of maintenance case filed by the father against son. In para No.13 it was Held "It is to be noted that Clauses (b) and (c) of sub-section (1) of Section 126 relate to the wife and the children under Section 125 of the Code. The benefit given to the wife and the children to initiate proceeding at the place where they reside is

not given to the parents. A bare reading of the Section makes it clear that the parents can not be placed on the same pedestal as that of the wife or the children for the purpose of Section 126 of the Code." Because of the language employed in Section 126(1)(b) (c) of the Code the Apex Court delivered the above judgment holding that, the father has no territorial jurisdiction to file the maintenance case against his son, where he resides.

A person who approaches the Court to obtain maintenance from his son or daughter to get rid of the starvation *i.e.*, as because he is unable to maintain himself or herself. The father or mother approaches the Court to get a meagre amount for their survival from their son or daughter. It is a social, moral, legal duty casts upon the son to maintain his parents irrespective of his income. If he fails to provide food *etc.*, the law provides the parents to file a maintenance application to get the maintenance amount from this son or daughter. According to the above judgment a father has to file a petition for claiming maintenance against the son, where his son is resides *i.e.*, the jurisdiction for filing of a maintenance

application by the father is where his son is residing. Their Lordships by following earlier judgment reported in 1963 SC Page 1521, delivered this judgment. By the impact of this judgments, it is very difficult for the parents to file these type of petitions, where the sons are residing.

For example : A son is working in Delhi in a reputed multinational company or in a Central Government Job, but the parents are residing at Hyderabad. Though, it is the duty casts upon the son to maintain the parents, but in view of the woman -folk the son neglected the parents. Thus poor parents in order to get their survival according to this judgment they have to file a petition at Delhi which is far away from their residence and it is very difficulty for these poor parents to attend each and every adjournment at Delhi in order to get the maintenance from his son. The travelling expenses will be more than the maintenance amount to be granted by the Hon'ble Court. The Hon'ble Court will not consider about the travelling expenses and those expenses will not be ordered to the parents.

Example No.2 : If the parents are illiterates and the son is residing in other state where that State language is not known to the parents what is the fate of the parents to go

to such a state where that language is not known to them how much difficulty has to be faced by them in engaging advocate and in filing the petition before the concerned Court without getting the acquaintance of such language.

It is the duty casts upon the son or daughter (who ever he may be) to provide food, shelter, clothing to the parents, when they fail to do so in discharging their lawful duties it is for them to provide the maintenance to the parents, wherever the parents are residing. They have to come and they have to pay the amount to the parents. But the parents cannot be asked to go to the Courts where his son or daughter is residing. This is a problem which is being faced by the poor parents through out the country.

In view of the above judgment the parents who intends to seek maintenance from their children have to necessarily file the maintenance petition, where their children are resides. As such Section 126 Cr.PC is to be properly amended by giving jurisdiction to the parents where they are residing otherwise great injustice will be caused to poor parents. This is needed urgently because throughout the country this problem is there. To meet out this problem, the amendment to Section 126 of Cr.PC is needed.

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## ENFORCEMENT ISSUES RELATED TO THE SECURITIES AND EXCHANGE BOARD OF INDIA

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An organized and efficient capital market is an engine of economic growth. Acting as an efficient tool for resource allocation, it

facilitates entrepreneurs to raise both risk and debt capital and provides opportunities to common investors to employ their disposable