

Bill No. 284 of 2019

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL, 2019

By

SHRI MANISH TEWARI, M.P.

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BILL

further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2019.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification
5 in the Official Gazette, appoint.

2 of 1974.

2. In section 126 of the Code of Criminal Procedure, 1973, in sub-section (1), after clause (c), the following clauses shall be inserted, namely:—

Amendment of section 126.

10 "(d) where his parent or parents reside together, in case of such proceedings being taken against such person by either parent of such person or both parents, as the case may be; or

(e) where his child or all his children reside, in case of such proceedings being taken against such person by any of his children or all of his children, as the case may be."

STATEMENT OF OBJECTS AND REASONS

Sub-section (I) of section 126 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'the Code') reads as under:—

'Proceedings under section 125 of the Code 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.'

Thus, a wife seeking an allowance for maintenance or interim maintenance and expenses of proceedings under section 125 of the Code may make an application for the same in the district (a) where the husband is, or (b) where he resides, or (c) where the wife resides, or (d) where he last resided with the wife, *i.e.*, the applicant.

However, a parent, under sub-section (I) of section 126 of the Code, may file an application in the district (a) where the son is, or (b) where he resides, or (c) where the wife of his son resides, or (d) where the son last resided with his wife. There is an ambiguity left open due to certain lacunae in section 126 of the Code. As a matter of fact, whereas the wife has been given the privilege to file an application under section 125 of the Code where she resides, but the parents have not been given the facility of filing an application in the district where they reside.

Similarly, an application, on behalf of the child, may be filed in the district (a) where the father is, or (b) where the father or mother reside, or (c) where the father has last resided with the mother of the child. But the child too has not been given the facility of an application being filed in the district where the child resides.

There seems to be no logic to prevent the extension of the facility of filing an application under section 125 of the Code in the district where such parents or children reside. Therefore, it is proposed to amend the Code suitably by inserting new clauses (d) and (e) in sub-section (I) of section 126 of the Code with a view to extend to parents and children the facility of filing an application under section 125 of the Code for maintenance in the district they reside.

The Bill seeks to achieve the above objects.

NEW DELHI;
October 24, 2019.

MANISH TEWARI

ANNEXURE

EXTRACT FROM THE CODE OF CRIMINAL PROCEDURE, 1973.

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126. (1) Proceedings under section 125 may be taken against any person in any district— Procedure.

(a) * * * * *

(b) * * * * *

(c) where he last resided with his wife, or as the case may be, with the mother of the illegitimate child.

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further to amend the Code of Criminal Procedure, 1973.

(Shri Manish Tewari, M.P.)