

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2452 OF 2015

- 1] Nilima W/o Shantanu Wavhal @
Nilima D/o. Baban Borde,
Age : 35 years, Occu.: Service
 - 2] Baban S/o Gulal Borde
Age : 75 years,
Occu. : Retired
 - 3] Hemlata W/o Baban Borde
Age : 67 years,
Occu.: Household,
No.1 to 3 – R/o 822,
Ganesh Mandir Road,
Khapur, Tq. Akkalkuwa,
Dist. Nandurbar
 - 4] Sandip S/o Baban Borde,
Age : 40 years,
Occu.: Service
 - 5] Sarita W/o. Sandip Borde,
Age : 34 years, Occu.: Household,
No. 4 and 5 R/o. Bldg. No. A-5,
Flat No.102, Dwarkesh Nagar,
Sarawali, Boisar, Dist. Palghar
 - 6] Ravindra S/o Ramdas Borde,
Age : 45 years, Occu.: Service
 - 7] Sunita W/o Ravindra Borde,
Age : 42 years, Occu. Household,
No. 6 & 7 R/o. Sendhwa,
Abhinav Colony, Nivali Road,
Barwani (Madhya Pradesh)
- .. APPLICANTS

VERSUS

Shri Shantanu S/o. Shivaji Wavhal
Age : 38 years, Occu.: Business,
R/o. Delhi Gate, Satbhai Mala,
Near D.Ed. College, Ahmednagar,
Tq. & Dist. Ahmednagar

.. RESPONDENT

Mr. A.S. Savant, Advocate h/f. Mr. A.G. Magare, Advocate for
the applicants
Mr. M.R. Sonwane, Advocate for the respondent

CORAM : M.T. JOSHI, J.

DATE : 20/11/2015

ORAL ORDER :

Heard both sides.

2. It is an admitted fact that process is yet to be issued in R.T.C. no. 335 of 2014 to the present applicants and the learned Judicial Magistrate First Class has merely directed for carrying inquiry to find out as to whether any process should be issued against the present applicants. In the circumstances, said proceedings need not be transferred from the Court at Ahmednagar to any other Court but to have convenience to the present applicants, the applicants would be at liberty to apply for transfer of the said case as and when the exigency may arise.

3. As regards the next of the case i.e. Criminal Case No. 167 of 2012 pending on the file of Judicial Magistrate First Class, Khed, Dist. Pune, it is an admitted fact that while the complainant i.e. present

respondent is the resident of Ahmednagar and present applicants i.e. accused therein are resident of Akkalkuwa, District - Nandurbar and Sendhwa Barwani, Madhya Pradesh. Further, the criminal cases filed by the present applicant no.1 - Nilima against the respondent - Shantanu bearing Criminal Application no. 27 of 2015 and R.C.C. No. 16 of 2015 are pending on the file of Judicial Magistrate First Class, Akkalkuwa, District - Nandurbar.

4. All the proceedings have arisen out of the matrimonial dispute. Since the applicant no.1 - Nilima, the wife of respondent - Shantanu is resident of Akkalkuwa while respondent - Shantanu is resident of Ahmednagar, in my view, consolidation of all the three remaining cases to the Court at Dhule i.e. a place in between & convenient to both sides would take care of the convenience of both the sides.

5. Learned counsel Mr. A.S. Savant h/f Mr. A.G. Magare, Advocate for the applicants in support of his submissions relied on the following authorities :

1] *Sumita Singh V. Kumar Sanjay and anr. (2001)*

10 Supreme Court Cases 41

2] *Jayshree W/o Parmeshwar Patil V. Parmeshwar alias Ghanshyam S/o Pitambar Patil 2013 (4) Mh.L.J. 379*

. Mr. M.R. Sonawane, learned counsel for the respondent relied on the following case laws :

1] *Jyoti Mishra V. Dhananjaya Mishra 2010 (10) SCR 229*

2] *Judgment of the Supreme Court dated 15/12/1978 in the case of Sabera Begum and ors. Vs. G.M. Ansari*

3] *Judgment of the Supreme Court dated 4/10/2005 in the case of M.M. Malhotra Vs. Union of India and others*

4] *Gopal Lal V. State of Rajasthan 1979 SCC (2) 170*

5] *Order passed by Supreme Court dated 3/12/2009 passed in Civil Appeal No. 5239 of 2002 (Dalip Singh Vs. State of U.P. and others)*

6] *Badri Prasad Vs. Dy. Director of Consolidation and others 1978 SCC (3) 527*

6. Considering the order that is now being passed hereinbelow, the case-laws relied on by both sides are not relevant as orders were passed in those cases in the set of facts involved therein. In the circumstances, the following order:-

7. Criminal Case No. 167 of 2012 pending on the file of Judicial Magistrate First Class, Khed, Dist. Pune, Criminal Misc. Application no. 27 of 2015 pending on the file of Judicial Magistrate First Class, Akkalkuwa and Regular Criminal Case No. 16 of 2015 pending on the file of Judicial Magistrate First Class, Akkalkuwa are hereby withdrawn from the concerned Court and are transferred to the file of Chief Judicial Magistrate at Dhule, who shall allot the files to one competent Court, as per the administrative exigency.

8. Considering the fact that many non-applicants in the rival proceedings are arrayed by the other side, the learned Judicial Magistrate First Class, to whom the cases would be allotted, shall be sympathetic in granting permanent exemption from appearance in these criminal cases in the facts and circumstances of the

case as well as he/she shall not insist on the personal appearance of the respective complainant on each of the dates but only on effective dates.

9. With these directions, the Application is disposed of.

[M.T. JOSHI]
JUDGE

arp/