

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.154 OF 2015**

Rajshree Raman Patil

@ Rajshree H. Patil & Ors.

..Applicants

V/s.

The State of Maharashtra & Anr.

.. Respondents

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Mr.Abhay Thorat, for the applicants.

Mrs.P.P. Bhosale, APP for the Respondent-State.

Mr.Hukumchand Patil, Respondent-in-person is absent.

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**CORAM : A. R. JOSHI, J.**

**DATE : 26th OCTOBER, 2015.**

**P.C.**

1. Heard learned counsel for the applicants on this application for transfer. Present application is preferred under section 407 of Cr.P.C. Present applicant, wife of the respondent no.2 had filed a proceeding against respondent no.2 for offence under section 498A of IPC and the same is pending since 2012. The said proceeding is numbered as RCC No.134 of 2012. It is also a factual position that present respondent no.2 has also filed a criminal proceeding against the present applicant for offence under section 380 of Indian Penal Code and said case is also pending before the same JMFC, Igatpuri, with which RCC

no.134 of 2012 filed by the present applicant is pending.

2. Earlier an attempt was made by this Court for amicable settlement considering that the matters pending before JMFC, Igatpuri are between the husband and wife. Two meetings were held in the Chamber of this Court and the circumstances were discussed and it was ascertained whether both the parties are ready and willing to withdraw the allegations against each other and to put an end to the dispute and have amicable settlement in the marital discord. However, said attempt could not be fruitful as both the parties are not ready to compound the matters.

3. Today heard learned counsel for the applicants. Respondent no.2 is not present today but on the earlier date he stated that he will not engage a lawyer and will defend his application. However, considering the scope of the transfer, only on the ground of the residence of the applicant wife at Badlapur, Dist-Thane, it is thought fit that the present application can be disposed of on hearing the learned counsel

for the applicants.

4. It is a factual position that the present applicant no.1 and respondent no.2 are serving in the same Educational Institute at Igatpuri and for this job present applicant no.1 is required to remain present at Igatpuri on all the working days of the school. This factual position is significant in order to ascertain whether there is a dire need to transfer the proceedings from JMFC, Igatpuri to appropriate JMFC at Thane. As mentioned earlier the ground of transfer is stay of the applicant no.1 with her father and one male child at Badlapur, Dist-Thane. Secondly it is argued that respondent no.2 is practicing much harassment to the applicant no.1 in various ways and also tampering with the witnesses in support of her case.

5. In the considered view of this Court, the very fact that applicant no.1 is required to attend her job in the Educational Institute at Igatpuri, in such circumstance, any how she has to attend Igatpuri and as such on this count the

criminal case lodged by her against her husband cannot be transferred to District-Thane, more so when the case is of the year 2012 and is for the hearing. Secondly the another case against the present applicant no.1 filed by her husband for offence under section 380 of Indian Penal Code is also pending before the same JMFC, Igatpuri and as such Judicial propriety demands that both these cases should be taken up by the same Judicial Officer so that the rival evidence can be adequately appreciated. Thirdly the allegations as to harassment at the hands of the respondent no.2 can be taken care of, by appropriate timely action by the concerned Judicial Magistrate First Class, at Igatpuri in the eventuality of any specific plea made before the concerned Court by the applicants by making suitable application. Needless to mention that concerned Judicial Officer shall take care of such application and appropriately deal with the application of harassment and proper relief can be granted to the aggrieved party.

6. In any event considering the above circumstances and the observations, this is not a case in which the present

application can be allowed for transfer and same is accordingly disposed of with directions to the concerned JMFC at Igatpuri to deal with both the pending matters in accordance with law and at the earliest and in consonance with the observations in the present order.

7. Application is accordingly disposed of.

**(A. R. JOSHI, J)**