

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION NO. 3180 OF 2009.

(SANGEETA W/O. PRAMOD CHIKATE..VS..PRAMOD @ PRAVIN S/O. DASHRATH CHIKATE & 13
OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : A.R.JOSHI, J.

DATED : FEBRUARY 10, 2015.

P.C.

None present for both sides except the learned Additional Public Prosecutor Mr. S.S. Doifode for Opponent/ Respondent No.14 State of Maharashtra.

2. The challenge in the present application, purported to have been filed under Section 482 of the Code of Criminal Procedure, is to the order of transfer passed by the Sessions Judge, Akola in Transferring Case No. 17 of 2009. There is no scope for this Court to hear the rival parties, though various opportunities are already given. As the matter is pending since 2009 and the proceedings before the trial Court are stayed by this Court, it is thought fit, in the interest of justice, to dispose of the present application with the able assistance of learned Additional Public Prosecutor Mr. Doifode. As such, this Court has gone through the record available with the Court and the earlier orders passed by the respective Courts.

3. Without going into much details as to litigation *inter-se* between the applicant and other opponents/ respondents, suffice it to say that the applicant/ wife had earlier filed complaint against her

husband and other relatives before Patur Police Station, District : Akola for taking action under Section 498A, 504 read with Section 34 of the Indian Penal Code. Consequently, Criminal Case No. 70 of 2006 was registered and was pending before Judicial Magistrate First Class, Patur, District : Akola. Thereafter at the instance of the present applicant/ wife the said case was transferred from Judicial Magistrate First Class, Patur to Judicial Magistrate First Class, Akola and as such at present apparently the said matter is pending before the concerned Judicial Magistrate First Class, Akola.

4. The present applicant then filed another complaint bearing No.17 of 2009 against her husband and other relatives for taking action against them under Section 494 r/w 109 of IPC. This complaint was lodged on the premise that her husband had re-married during subsistence of his first marriage with the present applicant. This complaint No. 17 of 2009 was earlier pending with Judicial Magistrate First Class, Telhara, District : Akola. In that matter the husband and his relatives filed an application for transfer and the said matter was transferred to the file of Judicial Magistrate First Class, Akola from Judicial Magistrate First Class, Telhara, District : Akola. This order, which is passed by Sessions Judge, Akola, dated 22nd July, 2009 is challenged in the present application.

5. The factual position now remains that the earlier complaint lodged by the present applicant for taking action against her husband and other relatives for the offence punishable under Section 498-A and 504 r/w 34 of IPC is with Judicial Magistrate First Class, Akola as it was earlier transferred from Judicial Magistrate First Class, Patur. In the absence of better particulars from both the parties, it is at this juncture not known whether the said case is still pending or not. But the factual position remains that the transferred matter is presently with Judicial Magistrate First Class, Akola from Judicial Magistrate First

Class, Telhara i.e. Case/Crime No.17/2009 for the offence punishable under Section 494 r/w 109 of IPC. It would be just and proper that the same Judicial Magistrate First Class Court at Akola to take up both the proceedings if the earlier case for the offence punishable under Section 498-A r/w. 504 and 34 of IPC is still pending. Moreover, there is nothing to interfere with the order of transfer of the second case i.e. Case No.17/2009 for the offence punishable under Section 494 r/w 109 of IPC transferred to Judicial Magistrate First Class at Akola, much less any action is needed under Section 482 of the Code of Criminal Procedure and as such there is no substance in the present application objecting the said transfer. Considering the delay in conducting the said case at the transferred place, specific directions are given to the Sessions Judge, Akola to place both these matters before the same Judicial Magistrate First Class, Akola for disposal according to law.

In the result, the present application is **dismissed** and disposed of.

The learned Sessions Judge to place both these matters, as referred above, before the same Judicial Magistrate First Class, Akola, competent to deal with these matters, for expeditious disposal in accordance with law.

Office to comply regarding directions to the Sessions Judge, Akola.

(A.R.JOSHI, J)