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

CRIMINAL APPLICATION NO.490 OF 2016

Tanu Vishwas Sharma	... Applicant
Versus	
Chandan Swapan Mukerji and Anr.	...Respondents

Mr.Ramesh Ramamurthy, for the Applicant.

Mr.P.M.Bhatt, for the Respondent no.1.

Mr.A.R.Kapadnis, A.P.P for the Respondent No.2-State

CORAM : REVATI MOHITE DERE, J.
DATE : 22nd DECEMBER, 2016

P.C. :

1. Heard learned counsel for the Applicant.
2. By this application, the applicant seeks the following substantive prayer:-
 - a) That this Hon'ble Court be pleased to pass appropriate orders under Section 470 Cr.PC and transfer the proceedings being the Case No.01826/PW/13 under Section 498A IPC and other section and D.V.Act case being the case No.20/DV/2012 and

MECR No.5 of 2013 in CC No.321/SW/2013 all pending before the 66th Metropolitan Magistrate Court, Andheri, Mumbai, at the instance of Sakinaka Police Station, to the Family Court No.3, Bandra, Mumbai to be heard alongwith M.J.Petition No.A-1188 of 2013.

3. Learned Counsel for the applicant states that it is necessary to transfer the aforesaid cases i.e. 498-A Case, D.V Case and MECR Case No.5 of 2013 to the Family Court, to avoid multiplicity of proceedings. He submits that the parties in all the proceeding are the same, the nature of allegations are similar and therefore to avoid multiplicity and duplication of evidence, the aforesaid 3 cases i.e. being the Case No.01826/PW/13 under Section 498A IPC and other section and D.V.Act case being the Case No.20/DV/2012 and MECR No.5 of 2013 in CC No.321/SW/2013 all pending before the 66th Metropolitan Magistrate Court, Andheri, Mumbai, at the instance of Sakinaka Police Station, Mumbai, be transferred to the Family Court No.3, Bandra, Mumbai to be heard alongwith M.J.Petition No.A-1188 of 2013.

4. Learned Counsel for the respondent No.1 vehemently opposes the application. He submits that the jurisdiction of each of the case is distinct and different. He submitted that the Family Court cannot consider and decide the issue which can be dealt with by the Magistrate Court and that nor can the Family Court convict and award imprisonment to the accused.

5. Perused the papers. It appears that Case No.01826/PW/13 was filed at the instance of the applicant for the offence punishable under Section 498-A and the said case is pending before the learned 66th Magistrate Court, at Andheri, Mumbai. The D.V. Case No.20/DV/2012 was also instituted at the behest of the applicant and the same is also pending before the learned 66th Magistrate Court, at Andheri, Mumbai. The MECR No.5 of 2013 in CC No.321/SW/2013 has been initiated at the behest of the respondent no.1 wherein allegations of adultery are made, qua the applicant. The said case is also pending before the learned 66th Magistrate Court, at Andheri, Mumbai. The case filed before the Family Court, Bandra, Mumbai, is a case instituted by the respondent no.1 against the applicant praying for divorce. Jurisdiction of both, the Family Court and

the Metropolitan Court are different and distinct, considering the nature of proceedings which are instituted before the said Courts. The 2 cases which are pending before the learned 66th Magistrate Court, at Andheri, Mumbai are instituted at the behest of the applicant i.e. Section 498-A case and D.V. Case and the 3rd case is instituted by the Respondent No.1, alleging adultery against the applicant, is instituted at the behest of the Respondent No.1. No doubt, since the parties are same, the evidence is bound to be similar, but that by itself is no ground to transfer the case from the Metropolitan Magistrate's Court to the Family Court. Needless to say, that the nature of proceedings and reliefs sought are different.

6. The application being sans merit, is rejected and is accordingly disposed of.

7. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.