IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL APPLICATION NO. 585 OF 2015

Babasaheb Ankush Aakade and others .....Applicants
V/s.
Sou. Anita Babasaheb Aakade and others ....Respondents

Mr. Sharad T. Bhosale for Applicants
Mr. R. V. Bansode for respondent no. 1
Mr. H. J. Dedhia APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : JANUARY 6, 2016.

PC :

Heard.

2) Rule. Rule made returnable forthwith with the consent of the parties.

3) This is an application seeking transfer of Misc. Application No. 138 of 2015 pending before Judicial Magistrate First Class Vashi at C.B.D. Navi Mumbai to the court of Judicial Magistrate First Class, Barshi, Taluka Barshi, Dist. Solapur or to the court of Judicial Magistrate First Class, Madha, Taluka Madha, Dist. Solapur.

4) The relevant facts are as follows:

5) Respondent no. 1 herein is the original complainant in Misc. Application No. 138 of 2015. She happens to be wife of applicant no. 1

i.e. respondent no. 1 in the said Misc. Application. Other applicants are close relatives of the applicant no. 1. Respondent no. 1 had filed an application under section 12, 18, 19, 20, 22 & 23 of Protection of Women from Domestic Violence Act, 2005. Applicant no. 1 has filed present application seeking transfer on the ground that it is inconvenient for the applicants to attend the proceedings at Navi Mumbai. It is submitted that applicant nos. 1 & 2 are in service. That applicant no. 6 is suffering from some physical disability and therefore according to the applicants matter deserves to be transferred to the court of Judicial Magistrate First Class Barshi or Judicial Magistrate First Class, Madha, Dist. Solapur.

6) It is pertinent to note that applicants had not filed any application seeking exemption from appearance. Applicants had also not apprised of any convenience in appearance to the learned Magistrate. Respondent no. 1 happens to be resident of Navi Mumbai. Matter cannot be transferred only on the ground of inconvenience of answering respondents unless a good ground is made to show that it has resulted either in miscarriage of justice or that

opponent/respondent may not get a fair hearing before a particular court. In the present application applicants are seeking transfer from one district to another only on the ground of convenience. Respondent no. 1 has a minor son. It is necessary for the court to also take in to consideration the convenience of the respondent. That even if the financial aspect of travelling is borne by the applicants, respondent would have to go through the inconvenience of travelling and a mental trauma. Application seeking transfer deserves to be rejected. Hence, following order.

O R D E R

(i) Application, being sans merits, stands rejected.

7) Learned counsel for the applicants upon instructions submits that on 05/01/2016, learned Magistrate has passed interim orders in favour of respondent no. 1.

8) Concerned court shall not be influenced by the rejection of this application and shall proceed with the matter on merits.

(SMT. SADHANA S. JADHAV, J.)

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