

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL) NO. 836 /2015

(Shri Suchet Manohar Shende & others vs. Sau.Vrushali w/o suchet Shende and others)

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

Court's or Judge's order

.....
Mr. P.S.Sadavarte, Adv. for applicants

CORAM: A.B.CHAUDHARI, J.

DATED : 6th January, 2016.

Heard.

Prayer clause (i) of the instant Application
reads thus :

“(i) Quash and set aside the complaint of the Respondents bearing Miscellaneous Criminal Application No.3391/2015 pending on the file of Shri S.A.Sardar, 30th Joint Civil Judge, (Jr.Dn.) and JMFC Pune, preferred u/s.12, 18,19,20,22 and 23 under the Protection of Women from Domestic Violence Act, 2005 against the present petitioners (Annexure-I).”

Obviously, the case in respect of which the impugned proceedings are under challenge, arose from the District of Pune, which falls within the

territorial jurisdiction of the Principal seat at Bombay. In no case, Nagpur Bench of the Bombay High Court has territorial jurisdiction over the matter which arise from the District of Pune.

In the case of Rajasthan High Court Advocates' Association vs. Union of India and others: (2001) Vol.2 SCC 294, the Apex Court in paragraph 18 held thus,

“18. It was submitted at the end by the learned counsel for the appellant that the Division Bench of the High Court in its impugned order has observed that the permanent bench at Jaipur shall have “exclusive jurisdiction” to hear the cases arising out of the 11 specified districts and the High Court at Jodhpur shall not have jurisdiction to hear those cases which fall within the territorial jurisdiction of Jaipur bench. He submitted that the use of word “exclusive” prefixed to “jurisdiction” is uncalled for. We find no substance in this contention as well. The purpose of the Presidential Order is to carve out and define territorial jurisdiction between the principal seat at Jodhpur and the permanent Bench seat at Jaipur. The cases are to be heard accordingly, unless the Chief Justice may exercise in his discretion the power vested in him by the proviso to para 2 of the Presidential Order. Clauses (1) and (2) of Article 226 of

the Constitution provide how territorial jurisdiction shall be exercised by any High Court. Although the said clauses do not deal with principal seat or permanent bench of High Court but in our opinion, there is no reason why the principle underlying thereunder cannot be applied to the functioning of the bifurcated territorial jurisdiction between the principal seat and permanent bench seat of any high Court. In case of a dispute arising whether an individual case or cases should be filed and heard at Jodhpur or Jaipur, the same has to be found out by applying the test - from which district the case arises, that is, in which district the cause of action can be said to have arisen and then exercising the jurisdiction under Article 226 of the Constitution.”

From the above test laid down by the Apex Court, it is clear that determination of territorial jurisdiction of the Bench should depend upon the factor, namely, from which District the case arises.

Merely because a small part of a cause of action arises within the territorial jurisdiction of another Bench the same, by itself, cannot be considered to be a determinative factor to touch the matter which falls within the jurisdiction of some other Bench, lest the judicial discipline should be breached. The rhetoric of judicial discipline cannot be a matter of

sermons but it must be adhered to in its letter and spirit by all the Benches of the Bombay High Court, keeping in mind the forum, convenience and the doctrine of *dominus litus*. In the result, I make the following order :-

ORDER

Criminal Application No. 836/2015 is disposed of, being *sans* the territorial jurisdiction of Nagpur Bench of the Bombay High Court, reserving liberty in favour of the applicants to institute the matter before the Principal Seat at Bombay, if they so desire.

JUDGE

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