

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1094 OF 2016

Sunil Ganesh Deogaya ..APPLICANT

VERSUS

State of Maharashtra and Another ..RESPONDENTS

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Mr. H.M. Shaikh, Advocate for applicant.

Ms. S.S. Raut, A.P.P. for Respondent No.1 – State.

Mr. R.R. Karpe, Advocate for Respondent No.2.

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CORAM : T.V. NALAWADE, J.

DATED : 20th JANUARY, 2017

ORDER :

1. The application is filed for transfer of three proceedings like criminal revision application filed under Section 397 of the Code of Criminal Procedure in Sessions Court, Shrirampur, proceeding under Section 498(A) of Judicial Magistrate, First Class, Shrirampur and Hindu marriage petition. Heard both sides.

2. It appears that respondent – Rekha is living in Shrirampur. She had filed proceeding for maintenance under Section 125 of the Code of Criminal Procedure and order is made in her favour. Criminal revision

is filed by present applicant – husband against the said decision and the same is pending in the Court of Sessions at Shrirampur. Similarly, criminal case is filed under Section 498(A) of the Code of Criminal Procedure against the applicant – husband and same is pending in the Court of Judicial Magistrate, First Class, Shrirampur. This Court has no assignment in respect of Hindu Marriage Petition.

3. It appears that husband has filed proceeding bearing no. 53 of 20014 for institution of conjugal right in the Court from Aurangabad. It is his case that wife and her relatives from her parent's side are picking up quarrels and they are preventing him from contesting the matter. In one incident in 2014, according to him he was beaten and he has sustained fracture in right heel. According to him, in 2015 again there was quarrel and he was beaten at Shrirampur. He feels that he may not be able to contest the matter at Shrirampur and so he has prayed for transfer of those matters from Shrirampur to Aurangabad.

4. Maintenance order is already made in favour of wife as she is not able to maintain herself. Convenience of wife needs to be considered in the proceedings like present one. She had started proceeding first in time. Even divorce proceeding is started first in time by her. In view of

this circumstance, this Court holds that the relief cannot be granted to the husband.

5. Learned Counsel for applicant submitted that some protection of police needs to be given to the applicant. In view of aforesaid incidents and apprehension which the applicant has in his mind, such protection can be given provided that applicant is ready to pay cost for protection. If he informs the police at Shrirampur in advance that he is arriving at Shrirampur, protection can be given only after depositing of amount for getting such protection. In those terms, application is disposed of as dismissed.

(T.V. NALAWADE, J.)

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