

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

**CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.379 OF 2016**

Rutuja Pawankumar Mugdiya)...Applicant

V/s.

Pradnya H. Sancheti & Ors.)...Respondents

Mr. S.S.Ladda, Advocate for the Applicant.

Mr. P.G.Sarda, Advocate for R.No.1.

Mr. P.H.Gaikwad-Patil, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 15th MARCH, 2017.

P.C. :

This is an application under Section 407 of the Cr.P.C. for transfer of proceedings initiated by the Respondent No.1- Wife/Aggrieved Person from the Court of J.M.F.C., Pune to the Court of J.M.F.C., Aurangabad. The Applicant herein is sister-in-law of the Aggrieved Person and sister of the husband. She is resident of Aurangabad. Respondent No.1-Pradnya is an Aggrieved Person, who moved an Application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (For the

sake of brevity 'D.V.Act') seeking several reliefs from husband and relatives of her husband. Respondent No.2 herein is the husband of the Aggrieved Person whereas rest of the relatives are relatives of the husband.

2 Heard the learned Advocate appearing for the Applicant herein. By placing reliance upon the judgment of this Court in the matter of **Vijay Sudhakar Patil v. Sau. Asha Vijay Patil** decided on 8.5.2014 at Aurangabad Bench of this Court, the learned Advocate argued that no cause of action had arose at Pune and, therefore, Aggrieved Person cannot validly maintain application under Section 12 of the D.V.Act before the Court at Pune. Reliance is also placed on the judgment of the Hon'ble Apex Court in **Eluri Raji Reddy and Ors. v. State of Delhi and Anr.** reported in **SC Suppl. 2004(4)CHN 91** to buttress his contention. It is further argued that child of husband is with the present applicant who is residing at Aurangabad. She is also burdened with the responsibility of maintaining her own child apart from aged in-laws. Therefore, in submission of the learned Advocate for the Applicant for general convenience of the parties, proceedings

initiated by the Aggrieved Person under D.V.Act needs to be transferred to the Court of J.M.F.C., Aurangabad from Pune.

3 I have carefully considered the submissions so advanced. I have also perused the Application moved by the Respondent No.1 herein i.e., Aggrieved Person before the learned J.M.F.C., Pune under Section 12 of the D.V.Act. Following are the reliefs which are claimed in the said application:

“a) The application of the Applicant allowed with cost of Rs.1.50 Crore.

b) Respondents may kindly be directed to take the Applicant on the above address with Respondents for cohabitation.

IF NOT

c) Respondent No.1 be directed to provide monetary relief including medical expenses to the Applicants in the form of maintenance of Rs.50,000/- p.m. to Applicants as per Sec.20(d) of the Domestic Violence Act.

d) Respondent No.1 be directed to provide the rent of Rs.30,000/- p.m. to the Applicants and deposit amount of Rs.50,000/-

OR

e) Respondent may kindly be directed to

provide the rental flat of Applicants. As per section 19(1)(f) of the Domestic Violence Act or alternate accommodation.

f) Respondents be directed to handover the Stridhan of Applicant i.e. her gold and silver ornaments listed herewith this application.

g) Respondents be directed to pay compensation of Rs.3 Crore to the Applicant as per Section 22 of the Domestic Violence Act.

h) Respondents be restrained from doing any kind of Domestic Violence upon the Applicants as per the Domestic Violence Act under section 18(a) of the Domestic Violence Act.

I) Respondent No.5 may kindly be restrained from her interference and presence at the house of Respondent.

j) Any other just and equitable order may kindly be passed in the interest of justice.

4 Pleadings in paragraph 38 of the said application shows that Respondent No.1 herein i.e. Aggrieved Person is residing within the local limits of jurisdiction of the Court of J.M.F.C.,Pune. It is not disputed that the Aggrieved Person is resident of Pune.

In fact in cause-title of the Application, address of the Aggrieved Person is stated as 'Gangadham Phase I, Market Yard, Pune'. In the light of this undisputed position, let us examine whether Court at Pune has jurisdiction to entertain the Application under Section 12 of the D.V. Act filed by Respondent No.1 herein de-horse cause of action at Pune. Section 27(1)(a) of the D.V. Act reads thus:

*“27. **Jurisdiction**-(1) The Court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which-*

(a) the person aggrieved permanently or temporarily resides or carried on business or is employed; or

Bare perusal of this provision makes it clear that the Aggrieved Person is entitled to lodge an application under Section 12 of the D.V. Act in the Court of J.M.F.C. where such Aggrieved Person either permanently or temporarily resides. Cause of action has no relevance for moving an application under Section 12 of the D.V. Act provided the Aggrieved Person resides within the territorial jurisdiction of the Court of the learned J.M.F.C. where

she moves such application. In the light of this discussion, I hold that ruling in the matters of **Vijay Sudhakar Patil and Eluri Raji Reddy and Ors. (Supra)** cited by the learned Advocate for the Applicant is of no assistance to the case of the Applicant herein.

5 In the case in hand, Respondent No.1-Aggrieved Person has claimed reliefs under several provisions of the D.V.Act, which is a piece of welfare legislation. It is enacted keeping in mind rights guaranteed by Articles 14,15 and 21 of the Constitution of India to provide for remedy under civil law which is intended to protect woman from being victim of domestic violence and to prevent occurrence of domestic violence of the society. In the case in hand, the victim woman, who is described as an Aggrieved Person in the D.V.Act resides at Pune. Asking her to visit Aurangabad time and again to prosecute her remedy under the welfare legislation would certainly add salt to her injury. In this view of the matter, even if the Applicant herein may be residing at Aurangabad, she cannot claim transfer of the proceedings initiated by the Respondent No.1 at the city of her place of residence. It is made clear that proceedings under

D.V.Act, Respondents are not accused and, therefore, question of alleged inconvenience does not arise.

6 In the result, application is devoid of merits and the same is rejected.

(A. M. BADAR, J.)