

sbw

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.569 OF 2016

Smt. Rubina Bilal Shaikh

... Applicant

vs.

State of Maharashtra & Ors.

... Respondents

Mr. Khalid Khan for the Applicant.

Mr. S. V. Gavand, APP, for the Respondent-State.

CORAM : A.K. MENON, J.

DATE : 13th JUNE, 2017

P.C.

1. In the present application, the applicant seeks transfer of case no.R.C.C. 1393 of 2014 from the Court of JMFC VIII Court to Thane. The only two grounds urged before me today in support of the application for transfer is that there is a case pending before the Joint Civil Judge, Junior Division and Magistrate First Class, Thane under the protection of Women from Domestic Violence Act, 2005 which is still pending in Thane and that the applicant has a young child to look after. It is the apprehension of the applicant that she will be called to attend the proceedings at Nasik and is therefore caused inconvenience to her.
2. It is further the contention of the applicant and as urged by the learned counsel appearing today and as stated in paragraph 12 of the application that respondent nos.2 to 7 are very influential persons having contacts with local goons and they pose a threat to her life.

3. The applications are opposed on behalf of the State by the learned Prosecutor. The transfer sought is in the case where a FIR has been registered in 2014 and in the signed statement given by the applicant herself on 27th April, 2014 the applicant herself has stated that the assault complained of took place at CIDCO Nasik. In the circumstances, pendency of the Domestic Violence Act proceedings in Thane, is of no relevance.
4. On a query from the Court as to whether there is anything on record to indicate that there have been threats to her life and as to whether in the application under Section 12 of the Domestic Violence Act, there is any averment as to threat of life, the learned counsel fairly admitted that there is no such averment. On the other hand, perusal of the complaint reveals the allegations of ill treatment and torture including criticism of the applicant. In the circumstances, I am of the view that no case is made out in transfer. In any event, such transfer is impermissible since the offence admittedly took place at Nasik within the jurisdiction of Ambad Police Station, Nasik. In the circumstances, no case is made out. I, therefore, pass the following order:—
 - (i) The application is rejected.
 - (ii) However, it is made clear that the proceedings under the Domestic Violence Act shall not in any manner be influenced by any of the observations in this order.

(A. K. MENON, J.)