

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRI. WRIT PETITION NO. 711 OF 2017

Mrs.Kiran Jayantkumar Dubey

-vs-

Jayant Kumar Vishwanath Dubey and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr.Shyam Dewani, counsel for the petitioner.
Mr.M.P.Kariya, counsel for the respondent No.1.
Mr.A.R.Chutake, APP for the respondent-State.

CORAM : REVATI MOHITE DERE, J.

DATE : 08.12.2017.

Heard learned counsel for the parties.

By this petition, the petitioner seeks transfer of the proceedings i.e. Reg. Criminal Case No.10 of 2012 pending before the learned Judicial Magistrate First Class, Hinganghat, to the Court of appropriate jurisdiction at Pune.

Learned counsel for the petitioner vehemently submitted, that the case ought to be transferred to Pune from Hinganghat, as the learned Judge had kept 3 applications preferred by the petitioner pending for the last two years and, that the learned Judge had passed certain orders, which were adverse to the petitioner. He submitted, that the petitioner moved to Pune in 2013 and, that it is extremely inconvenient for her to travel from Pune to Hinganghat to attend the Court proceedings. He submitted, that even the application for cancellation of the respondent's bail has not been decided by the learned Judge till date. Learned counsel

relied on the judgments reported in **AIR 2017 SC 310; Ajay Singh and another & Etc. v. State of Chhattisgarh and another, (2007) 3 SCC 62; Satish Jaggi v. State of Chhattisgarh and others, 2005 (1) Mh.L.J. Nilesh Jap Daru v. State of Maharashtra and 2015 ALL MR (Cri) 2612; Ganpat D. Kulthe v. Dr.Mahesh S. Chandurkar & Anr.** in support of his submission.

Learned counsel for the respondent No.1 opposed the petition. He submitted, that the trial is at the fag end, inasmuch as, around 6 to 7 witnesses have been examined till date, including one Investigating Officer. He submitted, that it would be highly improper to transfer the case to Pune at this stage, considering, that the learned Judge has had the opportunity to observe the demeanor of the witnesses. He further submitted, that this Court can always expedite the case as well as the hearing of the applications, which are pending before the learned Judge.

Learned A.P.P. also opposed the petition. He submitted, that at this stage, it would not be highly proper to transfer the case from Hinganghat to Pune, since almost all witnesses have been examined till date. He submitted, that no ground has been made out to transfer the case and, that pendency of the applications and passing of some adverse orders cannot be a ground to transfer the case. Learned A.P.P. informs, that the next date in the Trial Court is 13/12/2017 and, that this Court can expedite the hearing of the applications, which are pending before the learned Judge.

Perused the papers. The petitioner is the wife of respondent No.1. After their marriage in March, 2011, the

parties started residing at Bangalore and later in Hinganghat. It appears, that some differences arose between the petitioner and the respondent No.1, pursuant to which, the petitioner filed a Criminal Case, which was registered vide CR No.275 of 2011 with the Hinganghat Police Station, Wardha, for the alleged offences punishable under sections 498-A, 504, 506 and 323 of Indian Penal Code as well as under sections 3 and 4 of the Dowry Prohibition Act. After investigation, charge-sheet was filed in the Court of the learned Judicial Magistrate First Class, Hinganghat and the case was registered as R.C.C. No.10 of 2012. It is not in dispute, that almost 6 to 7 witnesses have been examined till date including one Investigating Officer. It is informed, that one or two more witnesses (I.O.) are likely to be examined. It is also informed, that after the said witnesses were examined, the petitioner shifted to Pune in 2015. It is informed, that 2-3 applications are pending before the learned Judge for the last two years. It is not brought on record, who is responsible for the said delay and hence, it would not be proper to comment on the same. The prosecution is a State prosecution and the petitioner has also given an Advocate and hence, the personal attendance of the petitioner is not necessary. No reliance can be placed on the judgments relied on by the learned counsel for the petitioner, as the same are not applicable to the facts of the present case and are clearly distinguishable.

In the aforesaid circumstances, it is highly improper and undesirable to transfer the case from Hinganghat to Pune, which is at the fag end, on the grounds urged by the learned counsel for the petitioner. The learned Judge has had the occasion to observe the demeanor of the

witnesses, whilst recording evidence. Accordingly, no ground is made out for transferring the case from Hinganghat to Pune, in writ jurisdiction.

Accordingly, the following order is passed.

ORDER

- (1) The petition is dismissed.
- (2) The learned Magistrate shall decide all the pending applications as expeditiously as possible and in any event by 22/12/2017.
- (3) Since the case is of the year 2011 and almost all the witnesses have been examined, the trial is expedited and the learned Judge shall decide the same as expeditiously as possible and in any event before 31/03/2018.
- (4) Petition is disposed of in the aforesaid terms. There shall be no order as to costs.
- (5) All the parties to act upon the authenticate copy of this order.

JUDGE