

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

CRIMINAL WRIT PETITION NO.575 OF 2017

1. Dr. Tarunkumar S/o Tulasidas Awatramany,
Age : 32 Years, Occu- Doctor,
R/o. 21/D, cosmos sring,
In front of Vedant Hospital, Kasar Vadawali,
Ghodbandar road Thane (W),
District Thane.
2. Tulasidas S/o Aasodmal Awatramany,
Age : 70 Years, Occu. Nil,
3. Pushpa w/o Tulasidas Awatramany,
Age : 67 Years, Occu. Nil,
4. Dharampal S/o Gurumukhdas Manoja
Age : 45 Years, Occu. Business,
Petitioner 2 to 4, R/o Krishna nagar
Rampuri camp, Amaravati.
P.S. Gadge nagar, Amaravati.
5. Rajesh S/o Tulasidas Awatramany
Age : 35 Years, Occu : Service,
R/o.Shanti Niketan, Near
White field Bangalore, Karnataka
6. Sara W/o Rajesh Awatramany,
Age : 33 Years, Occu : Service,
R/o. As above
7. Dr. Muskan w/o Captain Ramchandani
Age : 38 years, Occu : Doctor,
R/o.E-wing Flat No. 402,
4th Floor, Near Ayyappa Temple,
Ambarnath, Kalyan (Mumbai)

8. Dr. Captain S/o S. Ramchandani,
Age : 45 years, Occu : Doctor,
R/o. As above. ..PETITIONERS

VERSUS

1. The State of Maharashtra
Through Police Station Dondaicha,
Tal. Sindhkheda, Dist. Dhule.
(Copy to be served on P.P. High Court
of Bombay Bench at Aurangabad)
2. Rinky @ Sana W/o Tarunkumar Awatramany
Age : 26 Years, Occu. Doctor,
R/o. Plot No. 10, Nainod Mataji Nagar,
Sindhi Colony, Shahada Road, Dondaicha,
Tq. Sindhkheda, Dist. Dhule. ..RESPONDENTS

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Mr.A.V.Rakh, Advocate for petitioners
Mrs.V.S.Chaudhari,APP for respondent no.1
Mr.Rah Devdhe h/f Mr.S.P.Brahme,Advocate for respondent no.2.

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WITH
CRIMINAL WRIT PETITION NO. 768 OF 2017

Dr. Sau. Rinky W/o Tarunkumar Awatramany,
Age : 28 Years, Occu : Household,
R/o. C/o. Shri. Jawahar Kanheyyalal Keswani
R/o. Plot No. 10 Nainod Mataji Nagar,
Sindhi Colony, Shahada Road,
Dondaicha, Tal. Shindhkheda,
Dist. Dhule. ... PETITIONER

VERSUS

1. The State of Maharashtra

Through Police Station Officer,
Dondaicha Police Station,
Tq. Sindkheda Dist. Dhule

(Copy to be served on Asst. Public
Prosecutor, High Court of Judicature
of Bombay Bench at Aurangabad)

2. Dr. Tarunkumar S/o Tulasidas Awatramany,
Age : 32 Years, Occu : Doctor,
R/o. 21/D, Cosmos Spring,
In front of Vedant Hospital,
Kasar Vadawali Ghodbhandar Road,
Thane (West) – 400 615
3. Tulasidas S/o Aasodomal Awatramany,
Age : 70 Years, Occu. Nil,
R/o. Krishna Nagar, 3rd Line,
Near New Cotton Market, Amravati
4. Sau, Pushpa W/o Tulasidas Awatramany,
Age : 67 Years, Occu : Nil,
Krishna Nagar, 3rd Line,
Near New Cotton Market, Amravati
Tal. Amravati Dist. Akola.
5. Dharampal S/o Gurumukhdas Manoja,
Age : 45 Years, Occu. Business,
R/o. Krishna Nagar, Line No.4,
Near New Cotton Market, Amravati,
Tal. Amravati Dist. Akola.
6. Rajesh S/o Tulasidas Awatramany,
Age : 35 Years, Occu : Service,
R/o. 3114, Prestige Shanti Nektan
ITPL, Main Road, White Field,
Banglore – 560048 (Karnataka)
7. Sau. Sara W/o Rajesh Awatramany
Age : 33 Years, Occu : Service,
R/o. 3114, Prestige Shanti Nektan
ITPL, Main Road, White Field,
Banglore – 560048

8. Dr. Sau. Muskan W/o Captain Ramchandani
Age : 38 Years, Occu : Doctor
R/o. E- Wing Flat No. 402,
4th Floor Near Ayyappa Temple
Ambarnath, Tal. Kalyan,
Dist. Thane (Mumbai)
9. Dr. Captain S/o S. Ramchandani,
Age : 45 Years, Occu : Doctor,
R/o. Lajwanti Villa, Bk. No. 1050,
Room No.7 & 8, section 24,
Behind Ashok Talkies,
Ulhasnagar 421 003.

..RESPONDENTS

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Mr. Raj Devdhe h/f S.P.Brahme, Advocate for the Petitioner.
Mrs. V.S.Chaudhari, APP for Respondent No. 1.
Mr. A.V.Rakh, Advocate for Respondents No.2 to 9.

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CORAM : MANGESH S. PATIL,J.
DATE : 07/06/2018

ORAL JUDGMENT:-

Rule in both the Petitions. Rule is made returnable forthwith and with the consent of both sides in both the Petitions, the matters are heard finally at the stage of admission.

2] The petitioner no.1 in Criminal Writ Petition No.575/2017 is the husband of the petitioner in Criminal Writ Petition No.768/2017. As usual, several matters arising out of matrimonial dispute have been pending in District Dhule. Regular Criminal Case No.58/2015 for the offence punishable

under Section 498-A etc. of the Indian Penal Code lodged at the instance of the wife was pending in the Court of Magistrate at Dondaicha. Similarly, a proceeding initiated by her under the Domestic Violence Act was also pending in the Court at Dondaicha. The husband and his relatives filed Criminal Miscellaneous Applications No.98/2016 and 99/2016 for transferring both the matters to some Magistrate stationed at Dhule by submitting an application under Section 408 of the Code of Criminal Procedure. By the impugned order, the learned Sessions Judge directed transfer of both the matters to the Court of Judicial Magistrate, First Class, Shindakheda instead of some Magistrate from Dhule. The husband is impugning the order since he is dissatisfied with the transfer of the proceeding to Shindakheda instead of Dhule, whereas the wife is also impugning the same order for transferring the matters to Shindakheda.

3] I have heard learned Advocate for the petitioners in both the matters.

4] It is apparent that the husband and his relatives had sought transfer of the proceedings from the Court at Dondaicha on two counts. Firstly, on the ground of bias since the learned Magistrate was frequently refusing exemption from personal appearance and was issuing Non Bailable Warrants. Secondly, the relatives of the wife were threatening the husband and his relatives and there was danger to their lives if the matters were continued at Dhondiacha.

5] The learned advocate for the husband and his relatives now submits that the request was made to transfer the matters to a Magistrate at Dhule and though the matters have been transferred, those have been directed to be transferred to the Court at Shindkheda. He would submit that the Court in Dhule would have been a place of convenience for both the sides. Even earlier, in Miscellaneous Civil Application No.388/2016 (Nagpur Bench) by order dated 19/12/2016 a Petition that was pending in the Family Court at Amravati was transferred by the High Court to the Court of Civil Judge, Senior Division, Dhule. Therefore, even the wife would have found it convenient to attend the matters in the Court at Dhule. Instead the learned Sessions Judge has transferred the matters to the Court at Shindkheda the order may be modified to this limited extent.

6] The learned advocate for the wife vehemently submits that there was no sufficient ground to transfer the matters. The matters were smoothly going on in the Court at Dondaicha. Merely because the husband and his relatives were aggrieved by the rejection of their applications seeking exemption, no bias could be attributable to the Magistrate. There was no sufficient ground to transfer the matters. The order passed by the learned Sessions Judge is perverse and arbitrary.

7] I have carefully gone through the papers. It is a matter of record that the husband and his relatives were seeking transfer of both the proceedings primarily for two reasons. The learned Magistrate was frequently rejecting their request for personal exemption. All of them have been staying at far away places. It is common experience that the trials do not proceed as expeditiously as those are supposed to and it would cause hardship to anybody if they are required to attend the Courts from far away places when the trial and the matters do not proceed expeditiously. There is a record to show that the learned Sessions Judge had found such rejection of request for exemption as a basis for transferring the matter. In my considered view, no fault can be found with the view taken by the learned Sessions Judge in finding substance in the first ground and directing transfer of the matters.

8] The request being made now by the husband and his relatives for transferring the matter to Dhule, in my considered view is not appropriate. Though the request was being made for transferring the matters from the Court at Dondiacha and when those have been found favour with the learned Sessions Judge, further indulgence for Dhule for which there was not a ground before the learned Sessions Judge, cannot be conceded merely because on earlier occasion, a matter pending in the Family Court at Amravati has been transferred to the Court at Dhule. Similar course may not be adopted. Even in the mater in hand, particularly when the wife is objecting to the transfer of matters

from Dondaicha itself.

9] Considering all these facts and circumstances, in my considered view, there is no substance in both the Writ Petitions. No fault can be found with the impugned order passed by the learned Sessions Judge in directing transfer of both the proceedings to Shindkheda.

10] Both the Writ Petitions are dismissed. Rule is discharged.

(MANGESH S. PATIL,J.)

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