

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

**Criminal Application No. 03377 of 2017**

District : Ahmednagar

1. Shantabai Dhondiram Rathod,  
Age : 60 years,  
Occupation : Household,  
R/o. A/11, Adarsha Park  
Co-operative Housing Society,  
Barrage Road, Badlapur (West),  
Thane - 421 503.

2. Reshma Nitin Naik,  
Age : 32 years,  
Occupation : Household,  
R/o. A/11, Adarsha Park  
Co-operative Housing Society,  
Barrage Road, Badlapur (West),  
Thane - 421 503.

.. Applicants.

**versus**

1. Savita w/o. Anand Rathod,  
Age : 30 years,  
Occupation : Service,  
R/o. Room No.14,  
Building No.10B,  
Plot No.5-1,  
Nagri Niwara Parishad  
Colony,  
Gen. A.K. Vaidya Marg,  
Goregaon (East), Mumbai.

2. The State of Maharashtra,  
Through in-charge  
Police Officer,  
Taluka Police Station,  
Ahmednagar,  
District Ahmednagar.

.. Respondents.

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*Mr. Arvind G. Ambetkar, Advocate, for the applicants.*

*Mr. D.R. Jayabhar, Advocate, for respondent no.01.*

*Mr. K.D. Munde, Additional Public Prosecutor, for respondent no.02.*

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**With**

**Criminal Application No. 00850 of 2018**

District : Ahmednagar

Anand s/o. Dhondiram Rathod,  
Age : 35 years,  
Occupation : Service,  
R/o. A/11, Adarsh Park  
Co-operative Housing Society,  
Barrage road, Badlapur (West),  
Dist. Thane - 421 503.

.. Applicant.

**versus**

1. Savita w/o. Anand Rathod,  
Age : 30 years,  
Occupation : Service,  
R/o. Room No.14,  
Building No.10B,  
Plot No.5-1,  
Nagri Niwara Parishad  
Colony,  
Gen. A.K. Vaidya Marg,  
Goregaon (East), Mumbai.
2. The State of Maharashtra,  
Through its In-charge Officer,  
Nagar Taluka Police Station,  
Taluka & Dist. Ahmednagar.

.. Respondents.

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*Mr. Arvind G. Ambetkar, Advocate, for the applicant.*

*Mr. D.R. Jayabhar, Advocate, for respondent no.01.*

*Mr. K.D. Munde, Additional Public Prosecutor, for respondent no.02.*

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**CORAM : SMT. VIBHA KANKANWADI, J.**

**Date of reserving  
the judgment : 31st July 2018**

**Date of pronouncing  
the judgment : 04th September 2018.**

**JUDGMENT :**

01. Both these applications have been filed by the original accused persons under Section 407 of the Code of Criminal Procedure, 1973, for transfer of Regular Criminal Case No. 270 of 2016, from the court of learned Judicial Magistrate (F.C.), Ahmednagar, District Ahmednagar, to the court of learned Judicial Magistrate (F.C.), Ulhasnagar, District Thane.

02. Applicants in Criminal Application No. 3377 of 2017 are the mother-in-law and sister-in-law of respondent no.01, whereas applicant in Criminal Application No. 0850 of 2018 is the husband of respondent no.01. Respondent no.01 - informant lodged first information report on 26.02.2016 with

Nagar Taluka Police Station, Ahmednagar, for offences punishable under Sections 498A, 323, 504, 506, read with Section 34 of the Indian Penal Code. It was contended by her, that her husband is serving as a Clerk with High Court of Mumbai. He resides with his mother and sister at 11A, Adarsh Park, Barrage Road, Badlapur West, Taluka Ambarnath, District Thane. Her parents reside at Khandke, Taluka & District Ahmednagar. She got married on 28.12.2013 at Khopoli, Taluka & District Raigad. Her father had given 5,00,000/- rupees as dowry and domestic articles as well as furniture at the time of marriage. She was treated properly for about two months by the accused persons. But thereafter, all of them started saying that they want to purchase electronic articles and, therefore, she should bring amount of Rs. 2,00,000/- from her parents. She told them, that her father had taken loan for the marriage. It is not yet repaid and, therefore, he has no money. She refused to bring amount from her parents. On that count, all the accused persons used to abuse and her husband used to assault her. She was kept starved. Thus, they have mentally and physically harassed her. All of them stated in May 2014, that she should go to her parent's house and bring amount of Rs. 2,00,000/- to purchase electronic items and thereby they drove her away from the matrimonial house. It was told to her, that she should not return without money. She went to her

parent's house, told the said fact to the parents as well as brother and other relatives. She stayed for about 15 days with her parents and then all of her relatives took her to her matrimonial house. It was told to the accused persons, that the amount will be given till Dasera. But the said demand could not be fulfilled and, therefore, accused persons continued the harassment. She was assaulted, abused and her ornaments were taken out by the accused persons at about 08.00 p.m. on 17.02.2015 and she was driven out of the house. She called her father, who took her to his house at Khandke and since then, she is residing at her parental house. Thereafter, on 04.07.2015, she was taken to her matrimonial house but she was not allowed. Therefore, she again came back to her parent's house. Thereafter, she lodged report on 26.02.2016.

03. Applicants in both the applications contend that taking into consideration the contents of the FIR, the police authorities at Ahmednagar ought to have sent the FIR for investigation at the appropriate place. However, investigation was completed only on the basis of statements of relatives of respondent no.01 and charge-sheet is filed. The place of trial should be where the offence had taken place and, therefore, they have prayed for transfer of the case from the court of learned Judicial Magistrate (F.C.), Ahmednagar,

District Ahmednagar, to the court of learned Judicial Magistrate (F.C.), Ulhasnagar, District Thane.

04. Heard learned Advocate Shri A.G. Ambetkar for the applicants. Heard learned Advocate Shri D.R. Jayabhar for respondent no.01. So also, heard learned Additional Public Prosecutor Shri K.D. Munde for respondent no.02 - State of Maharashtra.

05. Since the charge-sheet has been filed after due investigation, perused the charge-sheet. In order to cut short, I would like to say that all the learned Advocates have made submissions in support of their contentions. Learned Advocate for respondent no.01 has submitted that since the FIR was lodged at Ahmednagar and the investigation has been carried out, learned Judicial Magistrate (F.C.), Ahmednagar, has jurisdiction to try and entertain the offence.

06. Chapter XIII of the Code of Criminal Procedure, 1973, deals with '*jurisdiction of the criminal courts in inquiries and trials*'. Section 177 of the Cr.P.C. provides that "*Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction is was committed.*" We are required to take into consideration the contents of the FIR in which allegations of offence committed by the accused persons have been made. The contents of FIR clearly disclose that respondent no.01 intended to say that

she was harassed and ill-treated at her matrimonial home. Admittedly, her matrimonial home is 11A, Adarsh Park, Barrage Road, Badlapur West, Taluka Ambarnath, District Thane. The entire FIR does not show that any of the act of the harassment or ill-treatment had taken place at Khandke, Taluka & District Ahmednagar. No doubt, after the alleged driving out of the informant out of the house, she is residing there, but that cannot be termed as consequence of the offence.

07. Learned Advocate appearing for respondent no.01 tried to take help of Sections 178 and 179 of the Cr.P.C., especially he tried to rely on Section 178(b) and (d). Section 178(b) provides, that "*where an offence is committed partly in one local area and partly in another, then it may be inquired into or tried by a Court having jurisdiction over any of such local areas.*" Similarly, Section 178(d) provides, that "*where it consists of several acts done in different local areas, then it may be inquired into or tried by a Court having jurisdiction over any of such local areas.*" It is to be noted that the contents of the FIR or even statements of the witnesses would disclose that any of the acts were committed partly in the village where father of the respondent no.01 is residing. Therefore, there is no question of case coming under the provisions of Section 178 of the Cr.P.C. Section 179 provides, that "*When an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a Court*

*within whose local jurisdiction such thing has been done or such consequence has ensued."* Residence of respondent no.01 with her parents at Khandke cannot be termed as consequence ensued as contemplated under Section 179 of the Cr.P.C. Hence, the Court at Ahmednagar has no jurisdiction to try and entertain the said case. Resultantly, the applications are required to be allowed.

08. Hence, the following order :-

(a) The applications are allowed.

(b) Regular Criminal Case No. 270 of 2016, pending before learned Judicial Magistrate (F.C.), Ahmednagar, District Ahmednagar, is hereby transferred to the Court of learned Judicial Magistrate (F.C.), Ulhasnagar, District Thane, for trial and disposal according to law.

( Smt. Vibha Kankanwadi )  
JUDGE

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puranik / CRIAPPLN3377.17etc

Bhagwan  
Govindrao  
Puranik

Digitally signed  
by Bhagwan  
Govindrao  
Puranik  
Date:  
2018.09.04  
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