

Nalawade

THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 10 OF 2017

Smt. Suvidha P. Suryawanshi and ors. ...Applicants.
vs.
Shri. Pramod H. Shinde and ors. ...Respondents.

Mr. Nikhil Mallelwar i/by Sachin Pawar for the applicant.
Mr. Vikramsingh Yadav for Respondent No.1.
Mr.A.R. Kapadnis, APP for the Respondent-State.

CORAM :A.S.GADKARI, J.
DATE : 27th March, 2018

P.C.

1. This is an application under Section 407 of the Cr.P.C. for transfer of Criminal Complaint No.1817/2012 filed by respondent No.1 against the applicant and her family members under Sections- 418, 420, 383, 384, 499,500,503 read with 34 of the Indian Penal Code pending on the file of Judicial Magistrate First Class, Pune to the Court of Judicial Magistrate First Class, Latur.

The applicant is the wife of respondent No.1. The aforestated complaint was lodged by respondent No.1 against the applicant and her close relatives and is pending on the file of the concerned Court since 2012.

2. The learned counsel for the applicant submitted that after

the applicant was driven away from the matrimonial house, she is residing with her parents at Latur and it causes inconvenience and hardship to her in attending the Court at Pune. He further submitted that the applicant being a woman it is very difficult for her to travel from Latur to Pune on every occasion and therefore, the said complaint may be transferred at Latur Court.

3. Per contra, the learned counsel appearing for respondent No.1 vehemently opposed the application and submitted that the applicant need not have to attend the Trial Court on each and every occasion and she has to attend the Court hardly on two to three occasions for recording her evidence and therefore, the present complaint may not be transferred to Latur.

4. It is to be noted here that, the Court cannot prohibit the applicant who is accused No.1 in the said criminal complaint from attending the Court proceedings on each and every occasion or on each and every date, if she desires to do so at her own will and therefore her presence before the Trial Court cannot be restricted by respondent No.1 upto a particular stage or to a particular occasion. The record indicates that, earlier the applicant had filed a complaint under Section 498A of the Indian Penal Code bearing RCC No.230/2010 before the

learned Judicial Magistrate First Class, Latur and the respondent No.1 being accused therein used to attend the proceedings at Latur regularly. That, the said complaint has now been resulted into acquittal of respondent No.1.

5. A perusal of the complaint i.e. CC No.1817/2012 filed by respondent No.1 would prima facie reveal that the same was filed only with a view to harass the applicant and her close relatives and is none less than an abuse of process of law. The respondent No.1 since lodging of the said complaint from 11.5.2012 till today has not proceeded with the same expeditiously and the same is also a ground for transfer of the said proceeding.

6. After perusal of the record, this Court is of the considered view that, undue hardship and inconvenience is being caused to the applicant for attending the aforestated complaint at Pune. The applicant is solely dependent on her parents and it is in the interest of justice to transfer the said case from the Court of Judicial Magistrate First Class, Pune to the Court of Judicial Magistrate First Class at Latur.

7. In view of the above, the criminal complaint No.1817/2012 filed by respondent No.1 pending on the file of

Judicial Magistrate First Class, Pune, Court No.9 is hereby transferred to the Court of Judicial Magistrate First Class, Latur for further hearing/trial.

The learned Judicial Magistrate First Class, Pune is hereby directed to transmit the case papers of the said case to the Judicial Magistrate First Class, at Latur by following necessary and due procedure as expeditiously as possible and within a period of three weeks from the date of receipt of the order.

8. Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)