

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 1128 OF 2018

Sandeep Chintaman Gangurde & Ors. ... Petitioners

Versus

Sunita Sandeep Gangurde & Anr. ... Respondents

Mr. P. B. Kakade for Petitioners.
Mr. S. S. Pednekar, APP for State.

**CORAM : NITIN W. SAMBRE, J.
DATE : APRIL 06, 2018.**

P.C. :

. Mr. Kakade, the learned Counsel for Petitioners submits that out of matrimonial discord, Criminal Application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 was moved before the Judicial Magistrate First Class at Baramati.

2. It is submitted by the learned Counsel for Petitioner that the Respondent No.1 – Complainant is permanent resident of Chembur wherein her father is residing permanently. So as to substantiate his claim, he would invite attention of this Court to the cause title in the Complaint under Domestic Violence Act produced at Page No. 69 [Exhibit – 'F'] so as to claim that the place of residence at Baramati is temporary one. When

confronted with the pleading in Para Nos. 15 and 16 of the complaint, wherein Respondent No.1 – wife has stated about her stay along with her pensioner father at Baramati, Mr. Kakade, the learned Counsel for Petitioners submits that in other collateral proceedings her residence address is shown to be that of Kurla. He would try to invite attention of this Court to the document which is produced at Page No. 26 [Exhibit – 'E'] which is an application under Section 13(1) (ia) of the Hindu Marriage Act, 1955 for decree for divorce, wherein the address of the Respondent No. 1 – wife is mentioned as resident of Thane. Mr. Kakade then would urge that in the proceedings initiated for grant of interim maintenance under Section 125 of the Code of Criminal Procedure the address provided by the Respondent No.1 – wife is that of resident of Kurla.

3. In the wake of aforesaid background, while inviting attention of this Court to the judgment in the matter of ***Ramesh Mohanlal Bhutada & Anr. V/s State of Maharashtra & Ors., reported in 2011(4) Bom.C.R. (Cri) 532*** he would urge that Section 27 of the Protection of Women from Domestic Violence Act does not permit initiation of the proceedings at the temporary place of residence of the Respondent No.1 – wife. He would also draw support from the judgment in the matter of ***Vijay Sudhakar Patil V/s Asha Vijay Patil, reported in 2014(3) Bom.C.R. (Cri.) 206*** on the same issue.

4. The proposition of law as sought to be canvassed by the learned Counsel for Petitioners cannot be doubted in the wake of observations made by the learned Judges in the matter of *Ramesh Mohanlal Bhutada and Vijay Sudhakar Patil (cited supra)*. However, if the facts of the present case are compared with that of the aforesaid two judgments, it can be noticed that the Respondent No.1 – wife in her Application under Section 13 of the Hindu Marriage Act in Para No.2 has specifically clarified that Thane is her temporary place of residence. In categorical terms she has pleaded that she is residing with her father, who is pensioner, temporarily at the address mentioned therein. Whereas, in the complaint preferred under Section 12 of the Protection of Women from Domestic Violence Act in Para nos. 15 and 16, in categorical terms she has clarified that she has shifted from Thane to Baramati along with her pensioner father.

5. That being so, the claim putforth by the Petitioner – husband and his parents that Baramati is a temporary place of residence of Respondent No.1 – wife, cannot be accepted. In the wake of aforesaid factual matrix, the support drawn from the two judgments of this Court viz – *Ramesh Bhutada and Vijay Patil (cited supra)* is wholly misplaced. No interference is warranted.

6. The Writ Petition is dismissed.

(NITIN W. SAMBRE, J.)