

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.197 OF 2018

Mr.Sandip Madhukar Sarak ... **Applicant**

V/s.

Mrs.Swati Sandip Sarak @

Swati Laxman Patil & Anr. ... **Respondents**

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Mr.Kiran Kulkarni with Ms.Lalita Savakar and Mr.Jayesh Rathod
i/b. Kulkarni @ Associates, Advocate for the Applicant.

Mr.Rahul S. Kadam, Advocate for the Respondent No.1.

Mr.S.V.Gavand, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 4th OCTOBER 2018.

P.C. :

1 This is an application under Section 407 of the Code of Criminal Procedure for transfer of Criminal Case No.370 of 2017 between the parties pending on the file of the learned Judicial Magistrate First Class, Mohol, District Solapur to the Court of the learned Judicial Magistrate First Class, Washi, Navi Mumbai. The Criminal Case which is sought to be transferred is an application under Section 12 of the Protection of Women from Domestic

Violence Act (hereinafter referred to as 'D.V.Act' for the sake of brevity).

2 Heard the learned Counsel appearing for the applicant/husband. He argued that the application under Section 12 of the D.V.Act is not mentioning the reason as to why the same is filed in the Court of the learned Judicial Magistrate First Class, Mohol, District Solapur. He further argued that both the parties are residents of Navi Mumbai and even notices issued to the respondent/aggrieved person are accepted at the address of Navi Mumbai.

3 The learned Counsel appearing for the respondent/aggrieved person argued that temporarily the respondent/aggrieved person is residing and serving at Navi Mumbai. She intends to leave the job at Navi Mumbai. The witnesses are resident of Solapur District and, therefore, the application deserves to be rejected.

4 General convenience of the parties is one of the factor which needs to be addressed while deciding the motion for transfer of a case. In the case in hand, undisputedly, the present applicant/husband as well as the respondent/aggrieved person are residing at Navi Mumbai. In fact, it appears that the notices sent to the respondent/aggrieved person at her office address as well as

home address are served at Koparkhairane, Navi Mumbai. In this view of the matter, even if the witnesses might have residents of Solapur, general convenience of both the parties requires that instead of asking them to attend the Court of the learned Judicial Magistrate First Class, Mohol, District Solapur, they can be directed to conveniently attend the Court of the learned Judicial Magistrate First Class, Washi, Navi Mumbai on transfer of the proceedings. Therefore, the following Order :

ORDER

- (i) The application is allowed.
- (ii) Criminal Case bearing No.370 of 2017 between the parties pending on the file of the learned Judicial Magistrate First Class, Mohol, District Solapur is transferred to the file of the learned Judicial Magistrate First Class, Washi, Navi Mumbai.
- (iii) The parties are directed to appear before the learned Judicial Magistrate First Class, Washi, Navi Mumbai on **22nd November 2018** and to abide by further directions of the learned Judicial Magistrate First Class, Wash, Navi Mumbai.
- (iv) The application is accordingly disposed of.

(A.M.BADAR J.)