

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.513 OF 2018

SONU RAJIV LIMJE

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA AND ORS.)...RESPONDENTS

Ms.Deepa Punde I/b. Mr.S.S.Punde, Advocate for the Applicant.

Mr.P.H.Gaikwad-Patil, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 29th OCTOBER 2018

P.C. :

1 This is an application by the wife/First Informant for transfer of Regular Criminal Case No.239 of 2016 for offences punishable under Sections 498A, 323, 504, 506, 406 read with 34 of the Indian Penal Code from the court of learned Judicial Magistrate First Class, Daund, to the court of learned Judicial Magistrate First Class at Ulhas Nagar, District Thane.

2 Heard the learned counsel appearing for the applicant/First Informant/wife. She argued that the applicant/First Informant is a housewife having no source of income. She is required to attend the court at Daund by spending money. Other proceedings are pending at Ulhas Nagar and the respondents are attending those proceedings at Ulhas Nagar. Therefore, in submission of the learned counsel for the applicant/First Informant/wife, it will be convenient if the criminal case against the respondents pending on the file of learned Judicial Magistrate First Class, Daund, is transferred to the file of the learned Judicial Magistrate First Class at Ulhas Nagar.

3 I have considered the submissions so advanced.

4 It is seen from the record that the applicant/First Informant/wife has filed the First Information Report (FIR) with Police Station Vitthalwadi, District Thane, against respondent nos.2 to 5 who happen to be her husband, mother-in-law and

brothers-in-law. Accordingly, Crime No.00 of 2015 came to be registered for offences punishable under Sections 498A, 323, 504, 506, 406 read with 34 of the Indian Penal Code and the FIR came to be transferred to the jurisdictional Police Station i.e. Police Station Daund, where Crime No.299 of 2015 came to be registered. Ultimately, charge-sheet is filed and Criminal Case No.239 of 2015 came to be registered against respondent nos.2 to 5. That case is sought to be transferred from the court having territorial jurisdiction to try that offence to the court at Ulhas Nagar in District Thane, on the ground that it is inconvenient for the applicant/First Informant/wife to attend the court at Daund. It is also seen that the applicant/First Informant/wife has filed an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005, against respondent nos.2 to 5 in the court of the learned Judicial Magistrate First Class, Ulhas Nagar, and this is considered to be one more reason for transfer of the subject crime case to the court at Ulhas Nagar in District Thane. It is further averred that all witnesses are from Ulhas Nagar.

5 General convenience of the parties is the ground for transfer of a case from a particular court to some other court. In the case in hand, the case which is sought to be transferred is a State case wherein respondent nos.2 to 5 are accused. The offence allegedly took place within territorial jurisdiction of the learned Judicial Magistrate First Class at Daund. That court is competent to try the crime in question. Being a State case, it is not at all required for the applicant/First Informant/wife to attend the court of learned Judicial Magistrate First Class, Daund, unless and until she is summoned for adducing evidence. Similarly, other witnesses are also required to attend that court only on being summoned by the said court for adducing evidence. Expenses of attendance of the applicant/First Informant/wife and the witnesses will have to be obviously borne by the State when they will be summoned to adduce evidence before the court. Thus, the applicant and other witnesses will have to attend the court only once, for adducing evidence.

6 As against this, respondent nos.2 to 5 are required to attend the criminal case in which they are prosecuted on each and every date compulsorily. Their one absence from the trial court would result in issuance of warrant against them for securing their presence. Respondent nos.2 to 5 are required to attend the trial court on each and every date of hearing, unless they are exempted to do so under the judicial order.

7 In this view of the matter, it cannot be said that for general convenience of the parties, the said case is required to be transferred from the court having territorial jurisdiction to some other court as per choice of the applicant/First Informant/wife.

8 The application is, as such, devoid of merits, and the same is rejected.

(A. M. BADAR, J.)