

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.665 OF 2017

SACHIN SHANTARAM HABIB)...APPLICANT

V/s.

**VIMAL ALIAS VEDANTI SACHIN HABIB)
AND ANOTHER)...RESPONDENTS**

Mr.Nitesh Nevshe, Advocate for the Applicant.

Mr.Paras Yadav, Advocate for Respondent No.1.

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

CORAM : A. M. BADAR, J.

DATE : 24th SEPTEMBER 2018

P.C. :

1 This is an application by the husband with a prayer to transfer Criminal Application No.33 of 2017 pending on file of the learned Judicial Magistrate First Class at Kolhapur to the court of competent jurisdiction at Pune. The subject criminal application is under Section 12 of the Protection of Women from Domestic Violence Act, 2005.

2 Heard the learned counsel appearing for the applicant/husband. It is argued that applicant is in the employment of the Government and it is not possible for him to seek leave time and again to attend the court at Kolhapur. It is further argued that the applicant is having threat to his life if he attends the court at Kolhapur. It is argued that even the respondent/wife has stated that she has to spent an amount of Rs.3,000/- towards travelling expenses on each date of proceeding. With this it is argued that the applicant is ready to pay the expenses for travelling which may be borne by the respondent/wife for attending the court at Pune. The learned counsel appearing for the respondent/wife argued that even arrears of maintenance are not paid by the applicant, and therefore, the application under Section 12 of the Protection of Women from Domestic Violence Act, 2005, need not be transferred.

3 Respondent no.1/wife is the master of litigation filed by her and she has correctly chosen the forum i.e. the Court of the

learned Judicial Magistrate First Class at Kolhapur which has jurisdiction to entertain her application under Section 12 of the Protection of Women from Domestic Violence Act, 2005. The so called threat to life of the applicant has no tangible evidence. Except one non-cognizable crime (N.C.), there is nothing on record to demonstrate that the applicant is having threat to his life if he attends the court at Kolhapur. General convenience of the parties also does not require that the proceedings filed by the respondent/wife under Section 12 of the Protection of Women from Domestic Violence Act, 2005, need to be transferred to the court at Pune. Respondent/wife is residing in District Kolhapur. Hence, no case for transfer of proceedings under the Protection of Women from Domestic Violence Act, 2005 from Kolhapur to Pune is made out.

4 The application is, therefore, rejected.

(A. M. BADAR, J.)

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