

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPP) NO. 1593/2018
IN
CRIMINAL APPLICATION (APPLN) NO. 75/2017

Mrs. Neha Vishant Sonone & ors.

..VS..

Vishant Samadhan Sonone

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri M.P. Kariya, Advocate for the applicant(s)
Ms. F. Badani, Adv h/f Shri S.V. Sirpurkar, Adv for the non-applicant

CORAM : Z.A.HAQ, J.

DATED : 28/11/2018

Accepting the explanation given in the application, the order passed by this Court on 11/09/2018 dismissing Criminal Application (APPLN) No. 75/2017 for want of prosecution is recalled. Criminal Application (APPLN) No. 75/2017 is restored.

Criminal Application (APPP) No. 1593/2018 is **allowed** accordingly.

CRIMINAL APPLICATION (APPLN) NO. 75/2017

Taken up for further consideration.

By this application filed under Section 407 of the Code of Criminal Procedure, the applicants seek transfer of the complaint case filed by the non-applicant in the Court of J.M.F.C. at Pune, to the Court of J.M.F.C. at Khamgaon. The

complaint case is filed praying that the present applicants be convicted for the offences punishable under Sections 420, 109 and 495 of the Indian Penal Code.

According to the applicants, the divorce petition which was filed by the non-applicant (husband) in the Court at Pune is transferred to the Court at Khamgaon, and it is pending in the Court at Khamgaon. It is further submitted that the applicant no. 1 (wife) has filed the proceedings under the Protection of Women From Domestic Violence Act, 2005 which are also pending in the Court at Khamgaon.

The advocate for the non-applicant has raised objection to the tenability of the application before this Bench contending that the application will have to be moved at the Principal Seat. The prayer for transfer is opposed on the ground that criminal prosecution/criminal case cannot be transferred only on the ground of convenience of the parties and the convenience of the witnesses and the larger interests of the society are also relevant considerations.

The learned advocate for the non-applicant has relied on the judgment given in the case of Abdul Nazar Madani vs. State of T.N. and another reported in (2000) 6 SCC at page 204.

Considering the facts of the case, the following order is passed:-

ADMIT.

Ms. F. Badani, Advocate h/f Shri S.V. Sirpurkar,
Advocate waives notice for the non-applicant.

The proceedings of Misc. Criminal Application No. 1770/2015 filed by the non-applicant and pending before the J.M.F.C., Court No. 7 at Pune are stayed, until further orders.

The learned advocates for the respective parties submit that the parties would like to explore the possibility of amicable settlement and request that the matter be referred for mediation at Khamgaon.

The learned District Judge, Khamgaon is requested to appoint a Mediator to examine the possibility of amicable settlement between the parties.

The applicant no. 1 and the non-applicant shall appear before the learned District Judge, Khamgaon on 14/12/2018 at 11:00 am and abide by further orders/directions in the matter.

The learned Mediator shall submit report to this Court till 30/01/2019.

The applicant no. 1 shall produce copy of this order/writ before the learned District Judge, Khamgaon on 14/12/2018.

JUDGE