

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 4 OF 2019

1] Pranita d/o Nivrutti Kambale
Age 34 years, Occu : Service
R/o "Praful Nagar" Bhokar,
Tq.Bhokar, Dist. Nanded.

2] Medhavini d/o Pranita Kambale
Age 7 years, Occu : Education,
Minor U/G of petitioner no.1.

.. Petitioner

[Petitioner No.1 Orig.respondent)

Versus

Nandlal s/o Kisan Lokde
Age 40 years, Occu : Agri,
R/o At Post : Chikana,
Tq. Dharmabad, Dist.Nanded.

.. Respondent

[Orig.applicant]

.....

Mr. V.B.Dhage, Advocate for the petitioners
Mr. M.D.Narwadkar for respondent.

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CORAM : MANGESH S. PATIL, J.

DATE : 21.09.2019

ORAL JUDGMENT :-

Heard both sides. Rule. Rule is made returnable forthwith. With the consent of both sides, the matter is heard finally at the stage of admission.

2] The petitioner no. 1 is the wife of the respondent and is aggrieved by the order passed in Criminal Misc.Application No.59/2018 by the learned Sessions Judge,Nanded directing five matters pending in the Court of Judicial Magistrate at Bhokar in which the respondent is involved to be transferred to Nanded for disposal according to law.

3] The learned advocate for the petitioners submits that the petitioner no.1 is a woman having a small child and serving at Bhokar. The learned Sessions Judge has without assigning cogent and sufficient reasons at once directed five matters to be transferred to Nanded. The grievance being made by the respondent is about threats being extended at the hands of the petitioner No.1 and her relatives. However, even the respondent has filed one Criminal case against her and her relatives in the Court at Bhokar. There were no sufficient and cogent reasons to transfer all these matters to Nanded requiring the petitioner to commute between the place of her work at Bhokar and Nanded.

4] The learned advocate for the respondent submits that as usual the matrimonial dispute has escalated and has resulted in filing several cases which are all pending at Bhokar. The last episode had taken place in the Court premises in the office of the Court Superintendent about which he has filed Misc.Application No.86/2018 against the petitioner seeking a direction under Section 156(3) of the Cr.P.C. The relatives of the petitioner have also engineered couple of cases i.e. R.C.C.No.7/2017 and S.C.C. No.197/2015. Attempt is made to harass him so that he keeps visiting Bhokar on and of. Apart from the recent complaint, even on earlier occasion he had several times made grievance with the police about the threats extended to him by the petitioner and her relatives. Finding that there is indeed some substance in the apprehension being entertained by him, the learned Sessions Judge in his

discretion has directed all the matters to be transferred to Nanded. The learned advocate further points out that in fact the respondent is resident of Dharmabad which is at a distance of about 90 Km. from Nanded and Bhokar is barely 40-45 Kms. Still cases have been transferred to Nanded and he is ready to face the inconvenience. It is not that the place where the cases have been directed to be transferred would be of any inconvenience to him. Therefore if the petitioner is going to face inconvenience by transfer of the matters even he would sail in the same boat. Writ Petition may be dismissed.

5] I have carefully gone through the cases. As can be seen from the details of five cases directed to be transferred by the impugned order, one case is initiated by the petitioner under the Protection of Women from Domestic Violence Act, 2005. She has filed another Criminal case under Section 498-A of the IPC against him. In the complaint filed by the respondent she is the accused no.1. In the rest of the two cases the petitioner is not directly related but is stated to be initiated at her instance by her relatives. It is to be noted that the petitioner no.1 is a woman having a child and is resident of Bhokar. Obviously, the transfer of the cases filed by her or against her from Bhokar to Nanded would certainly put her to lot of inconvenience and financial stress. It is not unusual that such matrimonial disputes have a cascading effect wherein both the sides make every attempt to harass the other side in some way or other. However, merely because of this reason, it would not be appropriate to jump to any conclusion about the genuineness or otherwise of the complaint filed.

6] It is necessary to note that the first case i.e. R.C.C. No.160/2013 for the offence punishable under Section 498-A of the IPC read with Section 34 of the IPC has been filed way back in the year 2014 and though the respondent from

time to time made a grievance with the police about having been threatened by her and her relatives, it is only in the year 2018 that in connection with the last episode which occurred in the Court premises that for the first time he has filed some complaint. Even in respect of that complaint report submitted by the Superintendent of the District Court, Bhokar, copy of which is filed on the record in connection with complaint filed by the respondent reads that it is only pursuant to some visitation rights wherein the respondent was given access to the minor daughter of the couple that the petitioner No.1 had taken the daughter to the chamber of the Superintendent. Couple of advocates were present there. The child started crying and therefore, the petitioner entered into the chamber, the respondent objected to her entry and the couple thereafter indulged in some verbal altercation. One advocate was asked to intervene and thereafter the petitioner is stated to have left the chamber and took away the daughter. Prima facie, it only depicts that there was some dispute between the couple and the petitioner had entered into the chamber of the Superintendent only after the child had started crying. The Superintendent in his report has not stated anything else. If such is the state of the affairs, one cannot, on the basis of this episode jump to the conclusion that the petitioner has indulged in some activities detrimental to the rights of the respondent.

7] Leaving it aside, as is mentioned hereinabove, at no earlier point of time the respondent had filed private complaint also. The parties are litigating since the year 2013. It is in these circumstances, there was no sufficient and cogent reason for the learned Sessions Judge to step in and at one stroke transfer of the matters from Bhokar to Nanded causing inconvenience to both the parties.

8] In my considered view, the impugned order clearly demonstrates lack of application of mind and cannot stand to scrutiny and is liable to be interfered with. The impugned order is quashed and set aside.

9] The Writ Petition is accordingly allowed. The Rule is made absolute.

[MANGESH S. PATIL, J.]

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