

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.194 OF 2019

NAGRAJ MOHAN SHEJWADKAR AND ORS.)...APPLICANTS

V/s.

**VINITA W/O. NAGRAJ SHEJWADKAR)
(VINITA D.O.KRISHNA RAIKAR) AND ANR.)...RESPONDENTS**

Mr.Saurabh Dongre, Advocate for the Applicant.

Mr.A.R.Kapadnis, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 14th OCTOBER 2019

P.C. :

1 By this application, the applicants, who are non-applicants before the learned Magistrate in a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as the Domestic Violence Act for the sake of brevity) instituted by the respondent no.1/wife are praying for transfer of Domestic Violence proceedings pending on

the file of the learned Judicial Magistrate First Class, Vasco Dagama at Goa, to the Family court at Pune for disposal according to the law.

2 Heard the learned advocate appearing for the applicants. He submits that applicant nos.2 and 3 are old and it is very inconvenient for them to travel to Goa for attending the proceedings under Section 12 of the Domestic Violence Act instituted by the respondent no.1/aggrieved person. He further submits that child of the couple is staying at Pune and the applicant no.1, who happens to be husband of non-applicant no.1 herein, is in Merchant Navy and therefore, for general convenience of the parties, the proceedings under Section 12 of the Domestic Violence Act are required to be transferred to Pune where the petition for divorce filed by the applicant no.1 is pending.

3 I have considered the submissions so advanced. No doubt, the applicant no.1 has instituted proceedings for divorce

against the non-applicant no.1 herein, which are pending at the Family court at Pune, but the cause title of the instant application shows that the non-applicant no.1 is residing at Goa. She is entitled to institute the proceedings under Section 12 of the Domestic Violence Act at the place of her residence. Transferring her proceedings to the Family court at Pune where the petition for divorce is pending would cause much more inconvenience to her as she would be required to attend the Family court at Pune all the way from Goa for prosecuting her application under Section 12 of the Domestic Violence Act.

4 Moreover, Section 29 of the Domestic Violence Act reads thus :

“29 Appeal – There shall lie an appeal to the Court of Session within thirty days from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be, whichever is later.”

In the event the non-applicant no.1 desires to challenge any order if her proceedings are transferred to the Family court at Pune, then she will have to approach this court in appeal and thereby, she would lose one remedy before the Sessions court.

5 In view of foregoing reasons, this is not a fit case where the proceedings under Section 12 of the Domestic Violence Act are deserved to be transferred at Pune where the proceedings for divorce are pending. The application is, therefore, devoid of merits and hence the order :

ORDER

The Application is rejected.

(A. M. BADAR, J.)