

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.301 OF 2018

Smt. Shalaka Aniket Dhatrak

...Applicant

V/s.

Shri. Aniket Arun Dhatrak & Anr.

...Respondents

Ms. Vaidehi Odhekar, Advocate for the Applicant.

Shri. Ketan Joshi, Advocate for respondent No.1 & 3.

Shri. P.H. Gaikwad-Patil, APP for respondent No.2/State.

CORAM : A.M.BADAR, J.

DATED : 7th JANUARY 2019

P.C. :

1. This is an application by the accused in SCC No.1274 of 2018 for the offences punishable under Sections 323, 504, 506, 427 of the Indian Penal Code for transfer of that complaint case from the file of the learned Judicial Magistrate First Class, Pune to the file of the learned Judicial Magistrate First Class, Dhule. The subject criminal case is a private criminal case registered on the basis of complaint presented by respondent No.3 Aniket Dhatrak, who happens to be brother-in-law of applicant Shalaka Dhatrak.

2. Heard the learned counsel appearing for the

applicant/accused. She argued that in all eight cases between the parties are pending in the Court at Dhule. The parties are residing at Dhule so also the witnesses, and therefore, for general convenience of the parties, the subject criminal case needs to be transferred from the Court of the learned Judicial Magistrate First Class, Pune to the Court of the learned Judicial Magistrate First Class, Dhule.

3. The learned counsel appearing for respondent Nos.1 and 3 namely husband and brother-in-law i.e. the original complainant argued that the applicant had also filed the FIR, which resulted in registration of Crime No.81 of 2017 against the contesting respondents for the offences punishable under Sections 498-A, 406, 504 of the Indian Penal Code and on completion of the investigation in that FIR, regular Criminal Case bearing No.513/2017 came to be registered. It is argued that some of the accused in that criminal case had applied for quashing the proceedings of that regular criminal case and the said petition was partly allowed. In addition, the Aurangabad Bench of this Court

had directed transfer of the said regular Criminal Case bearing No.513/2017 from the file of the learned Judicial Magistrate First Class, Dhule to the file of the learned Judicial Magistrate First Class at Pune. With this, it is submitted that the application deserves to be rejected.

4. I have considered the submissions so advanced and also perused the material placed on record. It appears that several cases between the parties are pending on the file of several Courts at Dhule. General convenience of the parties is one of the criteria for transfer of criminal cases. In the case in hand, the prosecution initiated at the instance of the applicant/wife is pending on the file of the learned Judicial Magistrate First Class, Pune, in view of the the order passed by the Aurangabad Bench of this Court in Criminal W.P. No.1303/2017. The subject criminal case bearing No.1274/2018 is a complaint case filed by the respondent No.3. It being the complaint case, presence of the respondent No.3/complainant before the concerned Court is necessary on each and every date. Cause title of the application reflects that the

respondent No.3/original complainant is resident of Pune. Directing him to attend the Court of the learned Judicial Magistrate First Class, Dhule would cause irreparable loss to the complainant and his absence on a given date may result in dismissal of his complaint for want of prosecution. As such, it cannot be said that for general convenience of the parties, the subject private criminal complaint case pending in the Court of the learned Judicial Magistrate First Class, Pune deserves to be transferred to the Court of the learned Judicial Magistrate First Class, Dhule.

5. At the same time, it needs to be clarified that the accused in the subject criminal complaint case may apply for dispensing personal appearance and the learned Trial Court shall consider such applications favourably if the need to seek personal exemption arises in future. In the result, the following order.

ORDER

The application is rejected.

(A.M.BADAR J.)