

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.532 OF 2018

Rameshwar Bharat Kedar

...Applicant

V/s.

Priyanka Rameshwar Kedar & Anr.

...Respondents

Ms. Nirmala Gopal, Advocate for the Applicant.

Mr. Anoop U. Patil, Advocate for the Respondent No.1.

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

CORAM : A.M.BADAR, J.

DATED : 7th MARCH 2019

P.C. :

1. By this application under Section 407 of the Code of Criminal Procedure, the applicant/husband is seeking transfer of proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as the D.V.Act for the sake of brevity) filed by Respondent No.1/wife from the Court of the learned Judicial Magistrate First Class at Parli, District Beed to the Court of the learned Civil Judge Junior

Division at Khalapur, District Raigad. The other prayer is transfer of Criminal Case No.262 of 2018 filed under Section 125 of the Code of Criminal Procedure claiming maintenance from the file of the learned Judicial Magistrate, Parli, District Beed to the Court of the “Senior Division” at Panvel, District Raigad.

2. It is seen that by way of amendment, the applicant/husband has subsequently prayed for transfer of Marriage Petition bearing No.A-567 of 2018 pending before the Family Court at Aurangabad to the Court of the Civil Judge Senior Division at Panvel, District Raigad for hearing the same along with the Hindu Marriage Petition No.243 of 2018.

3. The only ground urged before this Court is to the effect that respondent No.1/wife is residing at House No.4751, Building No.138, BHEL Colony, New Tilak Nagar, Chembur (W), Mumbai.

4. The respondent No.1/wife has filed an affidavit-in-reply and contended that before her marriage, she was residing along with her father at Mumbai. However, the employer of her father has imposed restrictions that married son/daughter cannot reside

in the official residence. It is further stated on affidavit by respondent No.1/wife that her father is going to retire in the month of July 2019. The affidavit further reiterates that as respondent No.1/wife is jobless, she is residing with her brother at Aurangabad. The learned counsel appearing for respondent No.1/wife has contended that she is native of Parli, District Beed, and therefore, she had filed proceedings under the D.V. Act as well as the proceedings claiming maintenance at Parli n Beed District.

5. I have considered the submissions so advanced. How summons are served on the respondent No.1/wife at the address given in Mumbai gets explained from the pleadings of parties. Father of the respondent No.1/wife is still residing in the quarter allotted by his employer at Mumbai and that is how summons are served on the respondent No.1/wife at Mumbai. However, duly sole testimony of respondent No.1/wife shows that she is residing with her brother at Aurangabad, hence, no ground of transfer of subject cases from the Court at Parli, District Beed to the Court at Panvel or Khalapur is made out. At the same time, it will be convenient for both the parties if proceedings under the D.V.Act

and proceedings claiming maintenance are transferred to the Court at Aurangabad. Therefore, the order:

ORDER

(i) The application is partly allowed.

(ii) Proceedings under the D.V.Act bearing Criminal Case No.261 of 2018 pending on the file of the learned Judicial Magistrate First Class, Parli, District Beed and proceedings in Criminal Case No.262 of 2018 for claiming maintenance under Section 125 of the Code of Criminal Procedure pending on the file of the learned Judicial Magistrate First Class, Parli, District Beed are transferred to the file of the learned Chief Judicial Magistrate, Aurangabad with a direction that the learned Chief Judicial Magistrate, Aurangabad may assign those proceedings to the concerned Court.

(iii) The application is accordingly disposed of.

(A.M.BADAR J.)