

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 592 OF 2018

Kisanrao Murlidhar Ekhande & anr. .Applicants

Vs.

Yogita Rahul Ekhande & anr. .Respondents

Mr. Fauzan i/b. Mr. H. P. Shah, Advocate, for the Applicants
Ms T. R. Qureshi, Appointed Advocate, for the Respondent No. 1
Mr. P. H. Gaikwad, APP, for the Respondent No. 2 – State

CORAM : REVATI MOHITE DERE, J.

DATE : 15.03.2019

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicants seek transfer of Mis. Appln. No. 48 of 2018 (D. V. proceedings) filed by the Respondent No. 1 from the Court of the learned JMFC, Kalyan to any competent Court at Nasik.

3. Learned counsel for the Applicants submits that the Respondent No. 1 has filed a 498A case as against the Applicants, who are the in-laws of the Respondent No. 1, and that the said

case is pending in the Court of the learned JMFC, Nasik. He further submits that divorce proceedings initiated by the Respondent No. 1's husband are also pending in the Nasik Court. Learned counsel for the Applicants, submits that the Applicants are senior citizens, who are facing tremendous inconvenience and hardship, as they are required to travel from Nasik to Kalyan to attend the D. V. proceedings, filed by the Respondent No. 1. He submits that the Respondent No. 1's parents live in Nasik and that it would be in the interest of the Respondent No. 1 also, if the said D. V. proceedings are transferred from Kalyan to Nasik.

4. Learned counsel for the Respondent No. 1 opposes the Application. She submits that the Respondent No. 1 is residing in Kalyan and hence, has filed D. V. proceedings in Kalyan. She further submits that the Respondent No. 1 will not insist on the presence of the Applicants on every date of the hearing before the learned Magistrate's Court except on the dates as may be required by the learned JMFC himself. Statement accepted.

5. Perused the papers. Merely because D. V. proceedings

and proceedings under Section 498A of the Indian Penal Code are pending in the Nasik Court is not a ground for transferring D. V. proceedings by the Respondent No. 1 from Kalyan to Nasik. The Respondent No. 1 is residing in Kalyan and hence, has initiated D. V. proceedings in Kalyan. If the proceedings are transferred as sought for, the Respondent No. 1 will also face hardships. As regards hardships caused to the Applicants is concerned, the Applicants are always at liberty to file an appropriate Application seeking their exemption from appearing before the trial Court at Kalyan, on every date. If such an Application is filed, the learned Magistrate shall consider the same sympathetically having regard to the statement made by the Respondent No. 1 in this Application and having regard to the fact that the Applicants are senior citizens.

6. Considering the aforesaid, there is no merit in the Application. The Application is dismissed with the aforesaid observations.

(REVATI MOHITE DERE, J.)