

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

MISCELLANEOUS CIVIL APPLICATION NO.47 OF 2020

Mr.Abhishek N. Billawa & Ors.	..Applicants
V/s.	
Mrs.Tejashree Abhishek Billawa	..Respondent

Mr.Ranvir Shekhavat i/b Raj Legal for the Applicants.

CORAM : C.V. BHADANG, J.

DATE : 14th DECEMBER 2020

Nilam
Kamble

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PC.

1. This is an application for transfer of Criminal Case No.1/DV/2019 from the file of the learned Metropolitan Magistrate, 50th Court, Vikhroli, Mumbai to the learned Family Court at Bandra, Mumbai, where Petition No.A-177/2018 filed by the petitioner for dissolution of marriage is pending.

2. The petitioner No.1 and the respondent are husband and wife. The petitioner by the aforesaid petition, has sought dissolution of marriage on the ground of cruelty. The respondent has filed a complaint under the Protection of Women from Domestic Violence Act 2005 ('D.V. Act' for short) which is pending in Criminal

Case No.1/DV/2019 before the Metropolitan Magistrate, Vikhroli, Mumbai.

3. The learned counsel for the applicant has placed reliance on the decision of this Court in case of Mr.Santosh Mulik V/s Mrs.Mohini Mithu Choudahri in Miscellaneous Civil Application No.64 of 2019 decided on 15th April 2019 and in the case of Sandeep Mrinmoy Chakraborty V/s. Reshita Sandip Chakrabarty & Anr. in Criminal Writ Petition No.4649 of 2015 decided on 06th September 2018, in order to submit that the Family Court has jurisdiction to entertain the complaint under the Domestic Violence Act.

4. It is submitted that looking to the nature of the dispute and the ground on which the dissolution of marriage is sought and the nature of the allegations made in the complaint against the petitioners in the DVA proceedings, common and connected questions would arise both in the Marriage Petition and in the complaint before the Metropolitan Magistrate and in order to avoid a conflicting decisions, it is necessary to transfer the DVA proceedings to the Family Court.

5. In this case record shows that the respondent has been served. However, none appears for the respondent since last two dates.

6. Having heard the learned counsel for the applicant and perused record, it does appear that looking to the nature of the grounds on which the dissolution is sought and allegations made in the application under Section 12 of the D.V. Act, by the respondent, common question would arise for determination.

7. In that view of the matter, the Criminal Application is allowed.

8. The Criminal Case No.1/DV/2019 is hereby withdrawn from the file of the learned Metropolitan Magistrate, 50th Court, Vikhroli, Mumbai and is transferred to the file of the Family Court, Bandra, Mumbai for disposal according to law.

C.V. BHADANG, J.