

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

19 MISC. CIVIL APPLICATION NO.44 OF 2018

GAJANAN MADHAVRAO NARWADE
VERSUS
KALANDI GAJANAN NARWADE AND OTHERS

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Advocate for Applicant : Mr. Choudhari N. L.
Advocate for Respondent No.1 : Mr. Deshpande Chaitanya C.
Advocate for Respondent Nos.2 to 6 : Mr. Jain Gajendra
Devichand.

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CORAM : V. K. JADHAV, J.
DATE : 15.03.2021

PER COURT :-

1. Heard both the sides finally at the stage of admission.
2. The applicant-husband is seeking transfer of Misc. Application No.99 of 2017 filed under the provisions of the Protection of Women from Domestic Violence Act, 2005 from the Court of Judicial Magistrate First Class, Washi, District Thane, New Mumbai to the Court at Hadgaon, District Nanded. The learned counsel submits that the respondent-wife has initiated the said proceedings under the provisions of the Protection of Women from Domestic Violence Act, 2005 in the Court at Washi. Though, on the basis of her complaint under

Section 498-A of IPC, the Crime came to be registered at Washi, however, it was subsequently transferred to Hadgaon Police Station as the incident as alleged in the complaint had taken place within the jurisdiction of Hadgaon Court and at present RCC No.85 of 2017 is now pending before the Judicial Magistrate First Class, Hadgaon, District Nanded. The learned counsel submits that it is difficult for the applicant to attend the court dates in the proceedings of Domestic Violence Application No.99 of 2017 pending before the Washi Court. The learned counsel submits that if the said proceedings under the provisions of the Protection of Women from Domestic Violence Act, 2005 are transferred to the Court at Hadgaon, then the same is also convenient for the respondent-wife to attend the court dates at one place.

3. The learned counsel for the respondent-wife submits that the respondent-wife was residing with the applicant at Hadgaon, District Nanded during her marital life and after she was driven out from her matrimonial house, she started residing with her brother at Turbhe, New Mumbai. The learned counsel submits that the respondent-wife has not only initiated the proceedings under the provisions of the Protection

of Women from Domestic Violence Act, 2005 at Washi, but she has also filed the complaint under Section 498-A of the IPC in the concerned Police Station at Washi. The investigation of the said crime has been transferred to the Hadgaon Police Station for want of jurisdiction and in consequence thereof, the charge-sheet has been submitted in the Court at Hadgaon. The learned counsel submits that the respondent-wife is attending the court dates at Hadgaon, District Nanded in the said RCC.No.85 of 2017, however, since it is a State case, she need not attend the said dates on regular basis. The learned counsel submits that, it is inconvenient for the respondent-wife to attend the court dates in the proceedings initiated by her under the provisions of the Protection of Women from Domestic Violence Act, 2005, if the said proceedings are transferred to Hadgaon Court, wherein the presence of the respondent would be required on each and every date.

4. It appears that the respondent-wife has not only initiated the proceedings under the provisions of the Protection of Women from Domestic Violence Act, 2005 at Washi, but even she has filed the complaint under Section 498-A of the IPC in the concerned Police Station at Washi. It also appears that the

investigation of the said crime came to be transferred to Police Station Hadgaon for want of jurisdiction and consequently, the charge-sheet came to be submitted before the Judicial Magistrate First Class, Hadgaon. It is the case of the respondent-wife that after she was driven out from the matrimonial house, she started residing with her brother at Turbhe and as such she has initiated the proceedings under the provisions of the Protection of Women from Domestic Violence Act, 2005 at Washi and also filed the complaint under Section 498-A of IPC at Washi. It appears that in a State case, the role of the respondent-wife, as a complainant is limited to the extent of giving the evidence before the Court and thereafter she need not attend the court dates, however, in the proceedings initiated under the provisions of the Protection of Women from Domestic Violence Act, 2005, the presence of the respondent-wife before the court is necessary. In view of the same, if the proceedings initiated under the provisions of the Protection of Women from Domestic Violence Act, 2005 are transferred from Washi to Hadgaon Court, the same would cause inconvenience to the respondent-wife.

5. The learned counsel in order to substantiate his contention placed his reliance on the following cases :

- i) Sumita Singh Vs. Kumar Sanjay and another, reported in AIR 2002 SC 396;
- ii) Mahadevi Gopal Mehetre vs. Gopal Prabhakar Mehetre, reported in 2015 (5) AIR Bom R 250;
- iii) Mona Aresh Goel vs. Aresh Satya Goel, reported in AIR 2000 SC 3512(1);
- iv) Ravinder Kaur vs. Hitinder Singh, reported in AIR 2000 SC 3403(2);
- v) Renu Gautam vs. Vinod Gautam, reported in AIR 2000 SC 3405 (1);
- vi) Anjali Ashok Sadhwani vs. Ashok Kishichand Sadhwani, reported in AIR 2009 SC 1374;
- vii) Vaishali Shridhar Jagtap vs. Shridhar Vishwanath Jagtap, reported in AIR 2016 SC 3584;
- viii) Reena Mehra vs. Rohit Rai Mehra and another, reported in AIR 2003 SC 1002;
- ix) Rakhi Banerjee vs. Subhankar Mukherjee, reported in AIR 2009 SC 928;
- x) T. Gayatri Devi (Smt) vs. Tallepaneni Sreekanth (Dr.), reported in 2013 (5) All.M.R. 918;

- xi) Anita Balkrishna Barge vs. Balkrishna Sopan Barge, reported in 2010 (6) All M.R. 685;
- xii) Smita Dhananjay Patil vs. Dhananjay Krishnakumar Patil, reported in 2014 (1) AIR Bom R. 450;
- xiii) Kalpana Pankaj Rozatkar vs. Pankaj Supadu Rozatkar, reported in 2013 (5) AIR Bom R 51;
- xiv) Sayali Swapnil Kuber vs. Swapnil Harischandra Kuber, reported in 2014 (1) Mh.L.J. 584;

6. In all the above cases, it is reiterated by almost all the courts that in matrimonial proceedings, the convenience of the wife is required to be considered.

7. In view of the above, I proceed to pass the following order :

ORDER

Misc. Civil Application is hereby rejected.

(V. K. JADHAV, J.)

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vmk/-