

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 921 OF 2020

Jaya w/o Balaji Bangar

Applicant

Versus

The State of Maharashtra & others

Respondents

Mr. R.C. Bora, Advocate holding for Mr. M.L. Wankhade, Advocate for the applicant.

Mr. S.W. Munde, APP for respondent/State.

Mr. P.S. Agrawal, Advocate for respondents No. 2 to 6.

CORAM : M.G. SEWLIKAR, J.

DATE : 13th December, 2021.

PER COURT :

1. This is an application under Section 407 of the Code of Criminal Procedure for transfer of criminal case from the Court of Judicial Magistrate First Class, Hingoli to the Court of Judicial Magistrate First Class, Akot, Dist. Akola.

2. Facts leading to this application are that applicant is the wife of respondent No. 2. She filed First Information Report on the basis of which offence under Sections 498A, 294, 323, 504, 506 read with Section 34 of the Indian Penal Code came to be registered with

Hingoli Police Station on the basis of which RCC No. 122/2019 was registered. Applicant is seeking transfer of these proceedings to the Court of Judicial Magistrate First Class, Akot, Dist. Akola.

3. Learned counsel for the applicant submits that there are 9 witnesses who are from Akot. He submits that considering the strike resorted to by MSRTC employees, applicant-wife will not be in a position to attend the Court at Hingoli. He, therefore, seeks transfer of the proceedings from Hingoli to Akot.

4. Shri Agrawal, learned counsel for respondents No. 2 to 6 submits that now charge-sheet is filed. Charge has been framed. Witness summons was also issued to the applicant but she remained absent for 6 to 7 times. Therefore, bailable warrant has been issued against the applicant. If she attends the Court once, her examination-in-chief and cross-examination can be completed on the same day. Therefore, it will not be in the interest of any of the parties to transfer the proceedings from Hingoli to Akot.

5. It is not in dispute that State Transport buses are not being plied on account of strike of its employees. Admittedly,

distance between Akot and Hingoli is 192 km. It will not be feasible for applicant-wife to travel all alone from Akot to Hingoli.

6. In the case of Rajani Kishor Pardeshi vs. Kishor Babulal Pardeshi (2005)12 SCC 237, it has been held that in this type of matter convenience of the wife is to be preferred over the convenience of the husband. In the case of Sumita Singh vs. Kumar Sanjay and another AIR 2002 Supreme Court 396, it has been held that it is the wife's convenience that must be look at.

7. In view of this, RCC No. 122/2019 is transferred from Hingoli to Akot, Dist. Akola. Application is allowed in terms of prayer clause 'B'. No costs.

(M. G. SEWLIKAR)
Judge

dyb