

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

918 CRIMINAL APPLICATION NO.2977 OF 2019

SMITA W/O. SHASHIKANT CHAVAN
VERSUS

1. THE STATE OF MAHARASHTRA
2. SHASHIKANT SURYAKANT CHAVAN
3. SURYAKANT CHANDRAKANT CHAVAN
4. SHAILA SURYAKANT CHAVAN
5. SHRIKANT SURYAKANT CHAVAN

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Advocate for Applicant : Mr. Devakate Anant R
APP for Respondents/State : Mr. S.W. Munde
Advocate for Respondents : Mr. Jadhavar Aashish T.

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CORAM : M.G. SEWLIKAR, J.
DATE : 21st December, 2021

PC.:-

Heard learned counsel Shri Devakate for the applicant and Shri Jadhavar learned counsel for the respondents.

2. This application is filed for transfer of RCC No.8/2017 pending before the Court of J.M.F.C., Kallamb, District Osmanabad under Section 498-A, 323, 504, 506 read with Section 34 of the I.P.C.

3. It is alleged that HMP proceedings, execution proceedings, recovery proceedings are pending before the J.M.F.C., Barshi, District Solapur. Learned counsel Shri Devakate submits that respondents any how will have to

attend the Court at Barshi since these proceedings are pending there. He further submits that the son of the applicant aged 7 years is not keeping good health and has to frequently take treatment. In these circumstances and being a woman, it will not be possible for her to travel all alone from Barshi to Kallamb. Learned counsel Shri Devakate submits that M.A. No.503/19 is pending. He, therefore, prays for allowing the application.

4. Learned counsel Shri Jadhavar submits that the divorce petition filed by the applicant has been allowed. He submits that recovery proceedings are also over. Therefore, no matter is pending before the Barshi Court. He submits that respondent nos.3 and 4 are old aged. In the title clause Respondent no.3 is shown to be of 60 years of age and respondent no.4 is shown to be of 55 years of age. He submits that respondent no.3 is suffering from back ache owing to which he cannot travel from Kallamb to Barshi. He has produced on record report of CT scan of brain of Shree C.T. Scan Centre which shows that respondent no.4-Shaila Chavan has Minimal cerebral edema. It also shows scalp swelling in parietal region. He submits that because of these diseases respondent nos.3 and 4 will not be able to travel from Kallamb to Barshi and back. He submits that respondent no.2 is ready to bear the expenses of applicant from Barshi to Kallamb and back, even if she travels by car. Learned counsel Shri Devakate submits that all the witnesses are from Barshi and, therefore, it will be proper if the proceedings are transferred from

Kallamb to Barshi.

5. Perused the papers. Respondents have produced report of Shree C.T. Scan Centre which shows that respondent no.4 has Minimal cerebral edema. The report further shows scalp swelling in parietal region. According to learned counsel Shri Jadhavar respondent no.3 is suffering from back ache. Even otherwise respondent no.3 is 60 years of age. Therefore, having regard to their age and the ailment respondent nos.3 & 4 are suffering from, it will not be in the fitness of things to transfer the proceedings from Kallamb to Barshi. As stated earlier, learned counsel Shri Jadhavar undertakes to bear the expenses of traveling by the applicant from Barshi to Kallamb even if she travels by Car. Even if M.A.No.503/19 is pending it is only the husband who will have to attend the proceedings at Barshi. In this view of the matter, it will not be advisable to transfer the proceedings from Kallamb to Barshi considering the illness of respondent nos.3 and 4. In view of this, application is rejected.

6. As undertaken by counsel for respondents Shri Jadhavar respondent no.2 shall pay the traveling expenses of applicant from Barshi to Kallamb and back even if she travels by Car.

[M.G. SEWLIKAR, J.]