IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Application (APPLN) No. 72 / 2020

Meena Yogesh Gojare Alias Meena Shravan Ghengat .. **Applicant**

Versus.

Yogesh Dhiraj Gojare and Ors. .. **Respondents**

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Mr. Propsper D'souza, Advocate for the Applicant.

Mr. Devidas J. Shejul, Advocate for Respondent Nos. 1 to 6.

Mr. A.R. Patil, APP for State.

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CORAM : SANDEEP K. SHINDE J.

DATE : 16th DECEMBER,2021.

P.C. : -

Heard. Mr. Prosper D'souza, learned Counsel for the Applicant; Mr. Shejul, learned Counsel for Respondents and learned APP for State.

1. It is an application under Section 407 of the Code of Criminal Procedure, 1973, by which the Applicant

(Complainant) seeks transfer of proceedings in Regular Criminal Case (said case for short) No. 11334/2017 pending on the file of Judicial Magistrate, First Class, Nashik to the Court of Judicial Magistrate, First Class at Bhusawal, District Jalgaon.

2. The subject case is culmination of the FIR filed by the Applicant in February, 2017 at Nashik under Sections 498-A, 323, 504, 506 r/w 34 of the Indian Penal Code, 1860 and Sections 3 and 4 of Dowry Prohibition Act, 1961 against the husband, mother-in-law, father-in-law, brother-in-law and sister-in-law, all residents of Nashik.

3. The charge in the subject case has been framed on 26th March, 2018 and the next scheduled date before the trial Court is 27th May, 2022, for recording the evidence.

4. Applicant seeks transfer of the said case on the ground that, in view of the long-way between the Busawal

and Nashik, Applicant finds it different to travel alone. Additionally, she has no means to bear the travelling expenses. Besides Applicant is apprehensive, of being harmed by her husband on her visit to Nashik while attending the court proceedings. Yet, next ground is that Applicant has filed two distinct proceedings against the husband; one under Section 125 of the Code of Criminal Procedure, 1973 and another under the Domestic Violence Act, 2005 at Bhusawal. Mr. D'souza, learned Counsel for the Applicant submitted, that the Respondent-husband is attending these two proceedings at Bhusawal and therefore transfer of the said case from Nashik to Bhusawal would not cause any inconvenience to him.

5. Mr. Shejul, learned Counsel for the Respondent vehemently opposed the the application.

6. It may be noted that the said case arose on FIR, lodged by the Applicant. At the material time, she was residing at Nashik. The Accused in the said case, are senior citizens, except husband of the Complainant. The

Prosecution as informed, would examine only two witnesses, including the Complainant. It appears, the Applicant was attending the proceedings till the charge was framed. The Accused in the case, are residents of Nashik. Except the Complainant, other witnesses are also residing at Nashik. In the consideration of these facts, simply because Applicant has filed two proceedings against the husband by itself, is not a ground available for seeking transfer of the said case i.e. R.C.C. No. 11334/2017 from Nashik to Bhusawal. In my view, no case is made out for exercising the jurisdiction under Section 407 in favour of the Applicant. Application is rejected.

7. However, minimal inconvenience to the Applicant can be ensured by issuing the following directions;

(i) The learned Magistrate at Nashik shall record the evidence of the Applicant preferably in a single day.

(ii) Presence of the Applicant shall not be insisted upon, unless indispensable.

(iii) The learned Court shall make efforts to dispose of

the R.C.C. No. 11334/2017 preferably on or before 31st May, 2022.

8. In so far as cost of travelling is concerned; Applicant's husband-Respondent No.1 shall pay Rs. 1000/- to the Applicant on her every visit and produce the receipt to the concerned Court.

9. Application is disposed of in the aforesaid terms.

(SANDEEP K. SHINDE, J.)

MOHAMMAD NAJEEB MOHAMMAD QAYYUM
Digitally signed by MOHAMMAD NAJEEB MOHAMMAD QAYYUM
Date: 2021.12.18 13:19:27 +0530

Najeeb..