

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APPLN) NO. 25 OF 2021

Mrs. Pinky w/o Sumeet Narsinghani (Maiden Name Pinky D/o Lalchand
Mulchandani) and another

...Versus...

Leena W/o Jagdish Narsinghani

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri A.O. Shriwas, Advocate for applicants
Shri. Sahil Dewani, Advocate for non-applicant

CORAM : VINAY JOSHI, J.

DATE : 20/09/2021

This is an application under Section 407 of the Code of Criminal Procedure seeking transfer of Criminal Misc. Application No.18/2020, pending on the file of Judicial Magistrate First Class, Nashik to the Court of Judicial Magistrate First Class, Nagpur. The said proceeding was filed by the non-applicant – Leena Jagdish Narsinghani (mother-in-law), against applicant (daughter-in-law) and her brother under the provisions of Domestic Violence Act. Undisputedly, daughter-in-law – Pinky is a permanent resident of Nagpur, whilst her mother-in-law – Leena is resident of Nashik.

2. It is brought to the notice that due to matrimonial dispute, the applicant – Pinky Sumeet Narsinghani has filed in all three proceedings in the Court of Nagpur, which are pending. To be specific, Pinky has filed petition for maintenance under Section 125 of the

Code of Criminal Procedure, (Misc. Criminal Petition No. E – 112/2020), which is pending at Family Court, Nagpur. She has filed Criminal Misc. Application No.1007/2020, which is pending on the file of Judicial Magistrate First Class, Nagpur, for seeking multiple reliefs under the provisions of Domestic Violence Act, and she has also filed Regular Criminal Case No. 3168/2021 under the provisions of Sections 498 – A of the Indian Penal Code, which is currently pending in the Court of Chief Judicial Magistrate, Nagpur.

3. Though the applicant has sought transfer for the reason of her financial constrains, however, to my mind, the said reason is also not required for seeking transfer. The learned Counsel for the non-applicant by placing reliance on the decision of this Court in the case of **Supriya Vs. Kamlesh, 2017(5) Mh.L.J. 642**, would submit that when a party raises a plea of financial constrains, it should be supported by documents. As stated above, this case is having peculiar facts of its own for which the reason of financial constrains is also not required.

4. Already three proceedings filed by Pinky are pending at Nagpur, out of which in two of the proceeding non-applicant – Leena Jagdish Narsinghani is a party, meaning thereby, anyhow she is required to attend the proceedings in the Court of Nagpur. Inasmuch as, it is to be noted that Pinky (daughter-in-law) has filed a proceeding under the D.V. Act in Nagpur Court wherein Leena Jagdish

Narsinghani is also party. The proceedings sought to be transferred is filed by Leena Narsinghani (mother-in-law) is also under the provisions of D.V. Act. Thus the situation is that two rival proceedings are filed against each others under D.V. Act. Certainly, in order to eliminate the chances of giving rise to two contradictory decisions, both D.V. proceedings have to be clubbed in one Court. Though the non-applicant – Leena Narsinghani showed her inability to travel to Nagpur by tendering medical certificate, already two other proceedings are pending against her at Nagpur. Moreover, on medical ground she can claim exemption which the trial Court would deal in appropriate manner.

5. In order to bring both rival proceedings before one Court, I am of the view that it is a legal requirement to transfer the proceeding to Nagpur as sought for. In view of that the following order.

ORDER

- (i) Application is allowed and disposed of.
- (ii) Criminal Misc. Application No. 18/2020 pending on the file of J.M.F.C., Nashik is hereby withdrawn and transferred to the Court of J.M.F.C., Nagpur where Domestic Violence proceeding bearing No. Criminal Misc. Application No. 1007/2020 is pending.

JUDGE