

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

Criminal Application (APPLN) No. 68/2019

Amol Daulatrao Jagtap
..VS..
Sau. Sharvari Amol Jagtap and others

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

Court's or Judge's Order

Shri A.D. Tote, Advocate for the applicant
Shri Raju Kadu a/w. Ms. Sujata Waldekar, Advocates for the non-
applicants

CORAM : VINAY JOSHI, J.

DATED : 18/08/2021

Heard.

2. This is an application under Section 407 of the Criminal Procedure Code (for short the “Cr.PC.”) seeking transfer of Criminal Case No. 582/2019 pending on the file of Chief Judicial Magistrate, Akola to the Court of Judicial Magistrate First Class, Arni, District Yavatmal. The said proceeding was filed by non-applicant no. 1 – wife alongwith her two minor children seeking maintenance in terms of Section 125 of the Cr.PC.

3. It is the applicant’s contention that the non-applicant (wife) has filed false case seeking maintenance in the Court of Chief Judicial Magistrate, Akola. She has also filed another false report against the applicant under

Section 498-A of the Indian Penal Code (for short the “I.P.C.”). The next ground is that, it is not practicable for the applicant-husband to attend the Court at Akola due to responsibility of old aged parents. Moreover, the applicant’s inconvenience on account of geographical distance has been canvassed. It is also one of the ground that the applicant is scared to attend the Court at Akola as earlier, the wife has filed criminal case under Section 498-A of the I.P.C. and, therefore, it is not safe for him to visit at the said place. During the course of argument, one additional ground regarding applicant’s health disability has been pointed out with some documents.

4. Admittedly, no other proceeding between husband and wife is pending in the Court of Arni (Taluka), District Yavatmal. There is no dispute that the non-applicant-wife alongwith her children are resident of Akola and, therefore, they have filed maintenance proceeding in the jurisdictional Court. So far as, the ground of the husband’s convenience is concerned, as compared with the plight of a lady claiming maintenance for herself and her two children that cannot be valid. Though, the husband has stated that he gets scared to go to Akola but, he has not referred any earlier instance as to on which basis he apprehends to visit at Akola. There is no allegation that the inquiry at Akola Court may not be fair and impartial. On the basis of medical papers tendered by the applicant-husband, it reveals that after filing of this

application, unfortunately, he is suffering from Covid-19 Virus. However, on that premise Criminal Proceeding can not be transferred, putting the wife and minors in difficulty. Certainly, the applicant-husband can agitate the said ground in the Court at Akola for seeking adjournment till the time of getting recovered from the ailment.

5. Pertinent to note that at the time of filing of this transfer application, neither medical ground was canvassed nor it was existing on that day. The entire tenor of application conveys that merely for the sake of convenience of husband, he is seeking transfer of maintenance proceeding filed by wife. Suffice to say that at the convenience and whims of husband, wife and minors cannot be dragged to other place by putting them in inconvenience.

6. Hence, the application being devoid of merits accordingly, stands rejected and disposed of.

JUDGE