

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

CRIMINAL APPLICATION (APPLN) NO. 69/2019

(Amol Daulatrao Jagtap & ors. Vs. Sau. Sharvari Amol Jagtap & ors.)

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

Court's or Judge's Orders

Shri A. D. Tote, Advocate for applicants.
Shri R. L. Kadu, Advocate for respondent Nos. 1 to 3.

CORAM : VINAY JOSHI, J.
DATE : 14.09. 2021.

Heard.

2. This is an application under Section 407 of the Code of Criminal Procedure seeking transfer of Criminal Case No. 588/2019 pending on the file of Chief Judicial Magistrate, Akola to the Court of Judicial Magistrate, Arni, District Yavatmal. It was a proceedings filed by the wife along with children seeking multiple reliefs under the provision of the Protection of Women From Domestic Violence Act (D. V. Act). Present applicants are respondents in the proceeding.

2

3. In recent past, similar application No. 68/2019 was filed by the applicant No. 1 – Amol (husband) seeking transfer of Criminal Case No. 582/2019 to the Court of Judicial Magistrate First Class, Arni, District Yavatmal which was under Section 125 of the Code of Criminal Procedure. By passing reasoned order, said transfer application was rejected by this Court vide order dated 18.08.2021.

4. It is not in dispute that respondent – wife along with her two minor children are residing at Akola, where she has filed proceedings under the D. V. Act (sought to be transferred).

5. The respondent – wife has filed proceedings under Section 125 of the Code of Criminal Procedure as well as complaint under Section 498-A of the Indian Penal Code which are pending in the Court of Akola. In short, at present, all three proceedings are pending in the Court of Chief Judicial Magistrate, Akola under whose

3

jurisdiction respondent – wife along with minor children are staying.

6. This Court has elaborately considered the similar reasons in earlier transfer Criminal Application (APPLN) No. 68/2019 while rejecting urge for transfer of proceeding filed under Section 125 of the Code of Criminal Procedure. On such background, it is canvassed that it is very inconvenience for the applicants to attend the Chief Judicial Magistrate Court at Akola. It is submitted that most of the applicants are staying at different places and therefore, it is difficult for them to attend the Court at Akola. It is argued that applicant No. 4 – Vikas is mostly staying in Delhi. Applicant Nos. 5 to 7 are staying at Washim and applicant No. 8 is staying at Sindudurg. Any how, even on transfer, they are required to travel till Arni District Yavatmal and therefore, the said ground does not have any bearing. Though applicant No. 1 – husband is suffering from various ailment, he can seek exemption from the Trial

4

Court which I hope would be considered properly with regard to the nature of ailment and documents tendered in support.

7. Admittedly, no other proceedings between the parties are pending in the Court of Arni, District Yavatmal. The entire tenor of application conveys that merely for the sake of convenience of husband and his relatives, transfer is sought. Suffice to say that merely for their convenience, wife and two minor children can not be forced to go to other place at the cost of their inconvenience.

8. In view of above, application is devoid of merits, hence stands rejected and disposed of.

JUDGE

Gohane.