

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1141 OF 2019

Asma Zarin W/o Mohammad Sadique Applicant

Versus

Shambi W/o Idris Shaikh
and others Respondents

....
Mr. Anant R. Devakate, Advocate for the Applicant
Mr. N.T. Bhagat, APP for Respondent No.10 - State
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 17th NOVEMBER, 2022

ORDER :

1. The applicant, lodged FIR against the respondent No.9 husband and his relatives initially at Begumpura Police Station, Aurangabad, which was registered at 0 number for the offences punishable under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act.

2. In short, it is the allegation of the applicant that her marriage with respondent No.9 had taken place on 28/04/2010. After the marriage, she started residing with the

respondents at Vikroli. Out of the wedlock, daughter Ayesha was born on 13/01/2011. In the year 2011, the applicant was driven out of the matrimonial home, and she came to reside at the home of her parents at Aurangabad. It is alleged that on 08/01/2013, the respondents came to Aurangabad and demanded dowry. The said offence was transferred to Park Site Police Station, Vikroli as the offence was committed at Vikroli. After investigation, the charge-sheet is filed in the Court of learned Additional Chief Metropolitan Magistrate, Vikroli (Mumbai). The applicant seeks transfer of the said case at Aurangabad on various grounds. According to her, the proceedings filed by the applicant for maintenance and under Domestic Violence Act are pending at Aurangabad. Five witnesses in the trial are from Aurangabad and one witness is from Jalna. The applicant being a lady having daughter aged 11 years is not in a position to attend the trial frequently by going to Mumbai.

3. Heard the learned advocate for the applicant and the learned Additional Public Prosecutor for the State.

4. Though the respondents initially appeared through their respective advocates and filed reply, subsequently their

advocates sought discharge, and they are accordingly discharged from the matter. Thereafter, though notices were issued to the respondents, and they are served, they have not appeared.

5. Having heard the learned advocate for the applicant and the learned Additional Public Prosecutor for the State, and after perusing the documents placed on record as well as the reply filed by respondent Nos. 1 to 9, this Court is of the considered view that transfer of the trial from the Vikroli to Aurangabad is not warranted in the facts of the present case. Though the applicant has filed proceedings at Aurangabad, which the respondent No.9 is frequently attending, that cannot be a ground for transfer the criminal trial from Vikroli to Aurangabad.

6. Second ground of the applicant that the applicant being a woman not in a position to attend the trial frequently is also not sufficient for transferring the trial from Vikroli to Aurangabad. The apprehension of the applicant can be taken care of by directing the trial Court that as far as possible the applicant's evidence be recorded on the appointed date and

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the trial Court shall ensure that the applicant shall not required to frequently attend the trial.

6. With these observations, application is disposed of.

**[NITIN B. SURYAWANSHI]
JUDGE**

S.P Rane