

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2103 OF 2021

SOW. SHILPA W/O RAMESHWR MARE
VERSUS
RAMESHWAR S/O VINAYAK MARE AND OTHER 2

.....
Advocate for Applicant : Ms. Rutuja A. Khatmode
APP for Respondents No.1 to 3 : Mr. G. J. Pahilwan
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CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 03-02-2022.

ORDER :

1. Wife has prayed for transfer of RCC No.26 of 2019 pending before Judicial Magistrate First Class, Ahmedpur, District Latur, to the Court of learned Judicial Magistrate First Class, Nanded. The said case is arising out of FIR lodged by the applicant for the offence punishable under Section 498A, 323, 504, 506 read with 34 of the Indian Penal Code.
2. Heard learned Advocate Ms. Rutuja A. Khatmode for applicant and learned Advocate Mr. G. J. Pahilwan for respondents No.1 to 3.
3. It has been vehemently submitted on behalf of the applicant that applicant got married with respondent No.1 on 08-05-2017 and went

to her matrimonial home in Latur District for cohabitation. She was treated nicely initially, but later on in-laws of the applicant started making illegal demand of Rs.10 lakh for starting the business. When she failed to fulfill the demand, she was subjected to physical and mental harassment. After she has been driven out of the house, she is residing with her parents at Nanded. Her parents are old, and taking into consideration the past incidences, she has apprehension in the mind that she would be assaulted by the respondents. The distance between Ahmedpur and Nanded is 67 kilometers and she is unable to travel for a long distance, and therefore, further she has stated that she has filed proceeding under Domestic Violence Act at Nanded, and therefore, it would be convenient for her to attend the proceedings at Nanded.

4. The learned Advocate appearing for the respondents strongly opposed the application and submitted that the respondents are resident of Brahmanwadi (Yenagewadi), Taluka Chakur District Latur. It is all the way stated by the informant that she was harassed and subjected to cruelty at her matrimonial home which is within the jurisdiction of Judicial Magistrate First Class, Ahmedpur. It is the State case, and therefore, it is not necessary for the

applicant to remain present on each and every date. Cases cannot be so transferred just for the convenience of a person and merely because the wife has wish for the same.

5. The FIR was lodged with Ahmedpur Police Station, and therefore, after investigation the case has been filed in the Court of Judicial Magistrate First Class, Ahmedpur. Interesting point to be noted is that at the time when the FIR was lodged, she had given her address as resident of Lingdal, Taluka Ahmedpur District Latur. The address of her parents and other witnesses is also Lingdal, Taluka Ahmedpur District Latur, and four of the other witnesses are from Brahmanwadi (Yenagewadi), Taluka Chakur District Latur, who appear to be the local panchas. In their statements, some of them have stated that now they are residing at Vijaynagar Nanded. But in the statement those persons, especially the parents of the informant, have stated that after she was allegedly driven out from the matrimonial home, she was taken to Lingdal, which is in Ahmedpur Taluka. The application is silent as to when applicant went to reside at Vijaynagar Nanded and what was her permanent address. Cases cannot be transferred as per the change of address by the wife. There has to be an element of permanentness to stay

at a place which would give jurisdiction to a Court where such person would stay. Under such circumstances, with this kind of vagueness and also the fact that it is the State case which does not require that the applicant should attend on each and every date. She has to remain present before the Court when she is served with the witness summons. As regards her allegation about possibility of assault is concerned, she can ask for protection and it can be seen that it is her fear which may not be even true. She cannot have a guess work. Therefore, transfer cannot be as per her wish. Hence, the application stands rejected.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-