

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

935 CRIMINAL APPLICATION NO.2774 OF 2021

INDU W/O. AMEY OZA @ INDU GUDGILA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicant : Ms. Bhosale Uma S. And Chavan Rajendra N.
APP for Respondent-State : Mr. V. M. Kagne

...
CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 27-01-2022

PER COURT :

1. Heard learned Advocate for the applicant as well as learned APP for respondent No.1-State. It will not be out of place to mention here that respondents No.2 to 5 though duly served, have remained absent.
2. By this application the applicant prays for transfer of Regular Criminal Case No.716 of 2021, pending on the file of Judicial Magistrate First Class, Shrirampur District Ahmednagar, to be transferred to the Court of competent jurisdiction in Pune.
3. It has been submitted by the applicant that on the basis of the First Information Report filed by her, offence was registered against the present respondents No.2 to 5 punishable under Section 498-A, 506 read with 34 of the Indian Penal Code and Section 3 of the the Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil

and Aghori Practices and Black Magic Act, 2013. Respondent No.2 is the husband of the applicant and respondents No.3 to 5 are parents-in-law and brother-in-law respectively.

4. The transfer of the petition has been prayed on the ground that the applicant has now settled in Pune. She is a medical practitioner and the child born to her suffers from "metachromatic leukodystrophy with regression of milestones," which has been considered as severe mental retardation as per the Certificate of Mental Retardation for Government Benefits issued in favour of the child by the Committee of Government of Maharashtra on 08-12-2016. The applicant submits that because of the mental condition of the daughter, she cannot move the girl and it is difficult for her to attend the Court dates. It is not possible for her to travel down to Shrirampur on the dates given and it would be convenient for her to attend the case if it is transferred to the Court at Pune.

5. Taking into consideration the documents which have been attached in respect of mental condition of the daughter of the applicant, and also the observations from *Priti Kumari vs. The State of Bihar and Ors., Criminal Appeal No.1387 of 2019* by the Hon'ble Apex Court on 13-09-2019, wherein the decision in *Rupali Devi vs. State of U.P. and Ors., [(2019) 5 SCC 384]* was relied, and it was then observed that :-

“The Courts at place where the wife takes shelter after leaving or driven away from the matrimonial home on account of acts of cruelty committed by the husband or his relatives, would, dependent on the factual situation, also have jurisdiction to entertain a complaint alleging commission of offences under Section 498A of the Indian Penal Code.”

6. It is to be reiterated that respondents No.2 to 5 have not contested the application and it can be taken that they have no serious objection for transferring the case.

7. The application deserves to be allowed and it is allowed in terms of prayer clause 'B'. In view of above, the application stands disposed of.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.