

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.109 of 2022

Manoj Sanchitram Kori

Applicant

versus

Kavita Manoj Kori and another

Respondents

Ms.Rinki Agarwal, Advocate for Applicant.

None present for Respondent no.1.

Mr.A.D.Kamkhedkar, APP, for Respondent-State.

CORAM : PRAKASH D. NAIK, J.

DATE : 12th August 2022

PC :

1. This is an application under Section 407 of Code of Criminal Procedure preferred by Applicant seeking transfer of the proceedings in C.C No.109/DV/2022 pending before the Court of learned Judicial Magistrate, First Class, Thane, to the Court of Family Court, at Bandra, Mumbai and to be heard along with P.A.No.2688 of 2019.

2. Respondent no.1 is the wife of applicant. She had initiated the proceedings before the Court of learned JMFC, at Thane under the provisions of Protection of Women from Domestic Violence Act. Applicant had initiated divorce proceedings before Family Court, at Bandra, Mumbai u/s.13(1)(i)(a) of Hindu Marriage Act, 1955 for dissolution of marriage solemnized between applicant and respondent no.1 on 10th December 2017.

3. Learned advocate for applicant submitted that proceedings

under D.V.Act are initiated by respondent no.1 to cause harassment to applicant. Respondent no.1 is not residing within the jurisdiction of Thane. She has been provided accommodation at Andheri on leave and license basis. Reliance is placed on Leave and License Agreement in respect of the premises occupied by respondent no.1 at Andheri. It is further submitted that applicant had initiated divorce proceedings before Family Court, at Bandra on 18th September 2019. Whereas the proceedings under D.V.Act were initiated by respondent no.1 on 6th March 2020. The said proceedings were initiated six months after accommodation was provided to respondent no.1 at Andheri.

4. It is pertinent to note that proceedings initiated under D.V.Act by respondent no.1 are pending before the Court of Metropolitan Magistrate, at Thane. The said proceedings are initiated u/s.12 of D.V.Act for relief under Sections 18, 19, 20 and 22 of said Act. Respondent no.1 has also filed interim application before said Court seeking interim relief. Applicant had opposed the reliefs sought in the said proceedings by filing detailed reply. The primary contention of the applicant is that divorce proceedings are pending before the Court at Bandra, Mumbai and that respondent no.1 has initiated proceedings under D.V.Act subsequently. It is also contended that respondent no.1 is residing at Andheri, Mumbai. Considering the nature of relief sought in the petition, factual aspects and the submissions of applicant for seeking transfer of proceedings, I do not think that any legal ground is made out to transfer the proceedings pending in the Court of learned JMFC, Thane to Family Court, at Bandra, Mumbai. Both are independent proceedings. The application is devoid of merits and deserves to be dismissed.

ORDER

- (i) Criminal Application No.109 of 2022 is rejected.

(PRAKASH D. NAIK, J.)

MST