

GRM

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 2030 OF 2022

Rajeev Udaibhan Singh & Anr. ... Petitioners
V/s.
Seema Rajeev Singh & Anr. ... Respondents

Mr. Shyam K. Singh i/b One Legal Bay LLP, Adv. for the
Petitioners.

Mr. A. R. Patil, APP for the State/Respondent No. 2.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 21, 2022

P.C.:

1. By this writ petition, the petitioners are challenging the order passed in Criminal Appeal No. 350 of 2021 dated 26th April, 2022 rejecting application below Exhibit-25 seeking direction against the complainant wife to arrange leaving certificate of their daughter from G. S. Shetty International School, Bhandup for submitting it to Ryan International School, Kharghar. The relief is sought on the ground that the school of their daughter is far away from Kamothe. It will reduce the travel time.

2. The complainant contested the application by filing reply stating that the earlier rejection of similar application has not been challenged by the petitioners; the daughter is performing well in the present school; the petitioners have not shown any interest in the child's academy earlier.

3. The learned Metropolitan Magistrate, 53rd Court, Mulund, Mumbai by order dated 29th September, 2021 rejected the application. Being aggrieved thereby, the petitioners filed Criminal Appeal No. 350 of 2021, which has been dismissed by the impugned order dated 26th April, 2022.

4. The learned Advocate for the petitioners submitted that the cost incurred by the petitioners for the purpose of payment of fees of their daughter, is twice the amount of fees required to be paid at Kamothe. He submits that the wife resides at Kamothe and not at Bhandup. He, therefore, submits that the Court below is not justified in rejecting the application.

5. Having considered the above submissions made on behalf of the petitioners, in my opinion, the learned Magistrate while rejecting the application at Exhibit-15 by order dated 3rd July, 2019 held that though petitioner no. 1 willing to change the school of daughter, he has not suggested any name of the school at Kamothe or nearby to Kamothe. He has not got provisionally admitted their daughter in any other school at Kamothe or at the nearer place. He has not objected at the time of taking admission in G. S. Shetty International School, Bhandup and since the academic year has started, the application was rejected.

6. The petitioners thereafter filed the present application at Exhibit-25. The learned Magistrate while rejecting the application at Exhibit-25 by order dated 29th September, 2021 held that in view of the rejection of earlier application on the same ground,

petitioner no. 1 is not entitled to any relief. It is further held that it is not proper to change the school without any genuine reason, particularly in view of rejection of such application in an earlier occasion.

7. In my opinion, in view of earlier order of rejection on similar ground by the learned Magistrate, the present application without any substantial reason/circumstance could not have been allowed by the learned Magistrate. The application had been filed on 6th April, 2021. The daughter is studying in the said school for sufficiently long period and, therefore, changing of school at this stage will affect the educational prospects of their daughter.

8. The reasoning adopted by the Court below can not be termed as 'perverse'. There is no miscarriage of justice. The writ petition is, therefore, dismissed. No costs.

(AMIT BORKAR, J.)