

Digitally
signed by
RUPALI
RAJESH
WAKODIKAR
Date:
2022.02.08
17:38:28
+0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 258 OF 2021

Nikhil Prakash Sinari and Anr. ...Applicants
Versus
Sharvari Nikhil Sinari and Anr. ...Respondents

Mr. Patankar i/b Patankar & Associates for the Applicants.

Mr. Prajyot Sarwadekar for the Respondent No.1.

Mr. A.R.Patil, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.
DATE : 3rd FEBRUARY, 2022
(Through Video Conferencing)

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the applicants seek the following substantive relief:

“(a) D. V. Application No. 900140 of 2019 filed by Respondent Nos. 1 (original applicant Nos.1) pending in the file of 9th Court of Learned Additional Chief Metropolitan Magistrate, Bandra, Mumbai be transferred to the Learned Family Court, Bandra, Mumbai to try, entertain and dispose of alongwith Petition Application ‘E’ No. 194 of 2019 & Petition ‘D’ No. 60 of 2019 pending in the Learned Family Court, Bandra, Mumbai, on its own merits & in accordance with law.”

3. Learned Counsel for the applicants submits that the respondent No.1 has filed D. V. proceedings being D. V. Case No. 900140 of 2019 in the Court of the learned Chief Metropolitan Magistrate Court, 9th Court. Bandra, Mumbai, as against the applicants under the Protection of Women from Domestic Violence Act.

4. Learned Counsel for the applicants submits that the respondent No.1 has also filed a Petition Application 'E' No. 194 of 2019 seeking maintenance from the applicant No.1 under Section 125 of the Criminal Procedure Code. He further submits that the applicant No.1 has also filed a petition, being Petition Application 'D' No. 60 of 2019 in the Family Court under the Guardians & Wards Act, 1890 and the Hindu Minority & Guardianships Act, 1956. He further submits that both the said proceedings filed by the respondent No.1 seeking maintenance under Section 125 of the Criminal Proceeding Code and the petition filed by the applicant No.1 under the Guardian & Wards Act, are being heard by the same Court i.e. Court Room No. 5 in the Family Court, Bandra, Mumbai.

5. Learned Counsel for the applicants submits that in view of the aforesaid, the proceedings pending before the learned Metropolitan Magistrate i.e. the D.V. proceedings be transferred to the same Court i.e.

Court Room No.5, Family Court, Bandra, Mumbai. He submits that this would be in the interest of both the parties and that no prejudice would be caused to the respondent No.1 if the proceedings pending in the Court of Metropolitan Magistrate under the D.V. Act is also transferred to the same Court where two proceedings between the parties are already pending.

6. Learned Counsel for the respondent No.1, on instructions of the respondent No.1 states that the respondent No.1 has no objection if the proceedings i.e. D. V. proceedings which is pending before the learned Chief Metropolitan Magistrate is transferred to the Court where the other two proceedings are pending i.e. before Court Room No.5, Family Court, Bandra, Mumbai.

7. Considering the aforesaid, in the interest of the parties the proceeding which is pending before the Additional Chief Metropolitan Magistrate, 9th Court, Bandra, Mumbai i.e. D.V.proceedings being No. 900140 of 2019 filed by the respondent No.1, is transferred to the same Court i.e. Court Room No.5, Family Court, Bandra, Mumbai, where the other petitions, being Petition Application 'E' No. 194 of 2019 & Petition 'D' No. 60 of 2019 are pending.

8. The application is allowed and disposed of on the aforesaid terms.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.