

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 244 OF 2021

Prathamesh Ashok Salekar

Applicant

versus

Ketki Prathamesh Salekar and another

Respondents

Ms.Shweta Agrawal, Advocate for applicant.

Ms.Payal Pawshe i/by Mr.Abhay Thorat, Advocate for respondent no.1

Mr.S.R.Agarkar, APP, for State.

CORAM : PRAKASH D.NAIK,J.

DATE : 28th July, 2022.

P.C. :

1. This is an application filed by Applicant under Section 407 of the Code of Criminal Procedure for transfer of proceedings in PWDVA No. 21 of 2021 pending before Joint Civil Judge Junior Division, Judicial Magistrate First Class, Wai to Family Court No.4, Bandra, Mumbai.

2. The proceedings under the Domestic Violence Act are initiated by the Respondent. The Applicant is a husband of Respondent No.1, the Applicant has initiated Divorce Petition before the Family Court at Bandra, Mumbai.

3. Learned Advocate for the Applicant submitted that the

Respondent No.1 has filed the Application under Section 12 of the Domestic Violence Act, in the year 2021. She had preferred transfer Petition before this Court to transfer Divorce Petition from the Family Court Bandra, Mumbai to Family Court at Pune. The said Petition was rejected by order dated 16.03.2020. The Respondent wife had sought time for filing reply. The Applicant had preferred an Application for dismissal of domestic violence case on the ground of jurisdiction. The domestic violence proceedings were filed after two years after the Applicant had filed Petition for divorce. The relief sought by Respondent-wife can be agitated before the Family Court at Bandra, Mumbai. The domestic violence proceedings can be filed in the Family Court. The Court has taken care of travel expenses of wife to be reimbursed by the Applicant. There was no reason for initiating proceeding at Wai. She has not produced resident proof. Both proceedings are required to be tried in the same Court.

4. Learned Advocate for the Respondent No.1 submitted that no ground was made out for transfer proceeding to Family Court, Bandra, Mumbai. The Court of Wai has jurisdiction to entertain the proceeding initiated by respondent No.1.

5. The Respondent No.1 has filed reply opposing the transfer

of proceeding. The Respondent No.1 is wife of Applicant and she is residing at Wai, District-Satara on account of compelling circumstances, she had no other option but to stay at Wai. The Respondent No.1 is unable to file her written statement before the Family Court, on account of pandemic. The Applicant had preferred an Application for dismissal of domestic violence and the said Application has been rejected by order dated 29.09.2021. The Respondent No.1 had approached the Court of JMFC, Wai. The Respondent No.1 contends that she has produced document of her residence as well as her parents. The Respondent No.1 faced domestic violence at the instance of the Applicant.

6. Considering submissions of both the sides and on perusal of the documents on record, I do not find any reason to grant the prayers made in the Application for transfer of proceeding. Hence, I pass following order :

ORDER

Criminal Application is rejected and disposed of.

(PRAKASH D.NAIK,J.)