

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.352 OF 2021

Milind Shankar Lad @ Mohammed Sahim
Inamdar

Applicant

versus

Pratibha Milind Lad and another

Respondents

Mr.Ajit S. Karwande, Advocate for applicant.

Mr.Yashodeep Deshmukh, Vaidehi Deshmukh and Mayuri Pawar
Advocate for respondent no.1.

Mr.A.R.Patil, APP for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 28th July 2022

PC :

1. The application has been preferred seeking transfer of Miscellaneous Application No.98 of 2018 and Criminal Miscellaneous Application No.13 of 2018 pending before the Court of Judicial Magistrate, First Class, Pen, to the Family Court at Mumbai where the proceedings initiated by applicant for nullity of marriage are pending.

2. Learned advocate for applicant submitted that in view of order dated 5th February 2020 passed by this Court in Writ Petition Nos.5791 of 2019 and Writ Petition No.5796 of 2019 the applicant would pursue the aforesaid proceedings pending before Court of JMFC, Pen. The nullity of marriage proceedings are pending in Family Court, at Mumbai. Both the proceedings from the Court of JMFC, Pen are required to be transferred to Family Court, Mumbai. Reliance is placed on the decision of Supreme Court in the case of

Mandeep Kaur Vs. Kamaljeet Singh¹ and in case of **Amita Vs. Vinod Kumar²**.

3. The applicant is apprehending danger at the instance of respondent and her family members when he visited the Court at Pen. There were threats to him at the instance of respondent. Learned advocate for applicant referred to complaint and affidavit of applicant regarding threats to him. Even for the convenience of both the parties proceedings can be transferred to Mumbai. The petition declaring nullity of marriage cannot be transferred to Court of JMFC.

4. Learned advocate for respondent submitted that issue relating to maintenance was already decided by learned JMFC, Pen. The applicant is now approaching the Court of JMFC, Pen for the purpose of alteration/review of previous order. The proceedings of nullity of marriage were initiated subsequently. The respondent is contesting the proceedings with legal aid. The threats referred to by the applicant were of the year 2013. No ground is made out for transferring the proceedings. Hence, the application may be rejected. Reliance is placed upon the decision of Rajasthan High Court in case of **Harat s/o Shri Ram Singh Vs. Kanta Devi d/o. Ramswaroop³**, without prejudice to the defense of respondent that there were no threats from her side to applicant, the respondent no.1 would not indulge in alleged acts.

5. On perusal of the documents I am of the opinion that proceedings initiated u/s.125 of Cr.PC by respondents were adjudicated by the Court of JMFC, at Pen. The petitioner had

1 (2004)13-SCC-592

2 (2004)13-SCC-688

3 Civil Misc. Transfer Application No.81 of 2019, decided on 24-11-2020

preferred proceedings before District Court challenging the order of JMFC whereas respondent had moved the proceedings for enhancement of maintenance. Petitioner approached this Court by preferring Writ Petition No.5791 of 2019 and Writ Petition No.5796 of 2019 and vide order dated 5th February 2020 passed by this Court, the petitioner was permitted to espouse his grounds by invoking Section 127 of Cr.PC.

6. Thus, main proceedings under Section 125 of Cr.PC were decided by Court of JMFC Pen. The alleged threats are stale.

7. No ground is made out for transferring proceedings from the Court of JMFC, Pune to the Family Court, at Mumbai.

ORDER

(i) Criminal Application No.352 of 2021 is rejected and disposed off.

(PRAKASH D. NAIK, J.)

MST