

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Criminal Application (APPLN) No. 15 of 2020

Sau. Savita Ramakant Kamalkar

Versus

Sau. Pramila Dattu Kamalkar and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.S.Chakotkar, Advocate for the applicant.

Shri S.A.Sahu, Advocate for the non-applicant no.3.

CORAM : ANIL S. KILOR, J.

DATED : 24th MARCH, 2022.

This is an application filed under Section 407 of the Code of Criminal Procedure for transfer of proceeding under Domestic Violence Act filed by mother-in-law and daughter of the applicant in the Court of Chief Judicial Magistrate, Buldahan to Judicial Magistrate First Class, Jafrabad, which is at a distance of 8 kilometer from the place of resident of the applicant.

2. Learned counsel for the applicant submits that because of burn injury, the applicant's face has become ugly and it is difficult for her to travel to Buldhana and to attend the proceeding at Buldhana.

Therefore, on this count, she prayed for transfer of the said Domestic Violence proceedings to Jafrabad. It is the contention of the applicant that all sorts of false allegations are made by the mother-in-law in the Domestic Violence case so as to avoid payment of maintenance by the husband of the applicant to the applicant. It is further submitted that the mother in law and the husband of the applicant are not allowing her to reside with them for the reason that the applicant looks ugly because of burn injuries.

3. On the other hand, learned counsel for the non-applicant submits that earlier applicant filed an application for transfer of proceeding bearing Hindu Marriage Petition No. 170 of 2018 filed by the non-applicant-husband from Buldhana to Jalna, which was rejected by order dated 3rd August, 2021. He therefore, prays this application needs to be rejected.

4. I have considered the contention of the respective parties. It is clear from the record that after rejection of the request of the applicant to transfer the Divorce Petition from Buldhana to Jalna, the Divorce proceeding will be conducted at Buldhana where the Domestic Violence Case is also pending, Therefore, there is no point in transferring one proceeding to

Jafrabad while the other proceeding is to be conducted at Buldhana. On the contrary, it will be convenient for both the parties to attend both the proceedings at one place, if both the proceedings are fixed on the same date.

5. Learned counsel for the non-applicant has shown willingness to give no objection for fixing both the matters on the same date and also submitted that he shall continue to pay Rs.1000/- to the applicant as travelling expenses.

6. In that view of the matter and looking to the fact that divorce petition is pending at Buldhana and application for transfer of the same has already been rejected by this Court, the request of the applicant to transfer proceeding i.e. Domestic Violence Case to Jafrabad cannot be accepted.

7. As regards the contention of the learned counsel for the applicant that all sorts of false allegations are made against the applicant is concerned, this Court cannot go into the merits of the said proceedings in this the matter filed under Section 407 of Code of Civil Procedure.

8. In the circumstances, I pass the following order.

ORDER

- i. Application is rejected.
- ii. However, learned Chief Judicial Magistrate and Civil Judge, Senior Division, Buldhana before whom Domestic Violence Case No. 44 of 2018 and Hindu Marriage Petition No. 170 of 2018 are pending, are requested to fix both the matters on same day so as to enable the applicant to attend both the proceedings on the same day.
- iii. The application is disposed of.

[ANIL S. KILOR, J.]

SACHINDANAND
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