

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.525 OF 2023

Santosh Gulabrao Hase Patil

..Applicant

Vs.

Aarti Santosh Hase Patil
and anr.

..Respondents

Applicant present in person

Mr.S.B.Kadu, Advocate for respondents

CORAM : R.G. AVACHAT, J.

DATE : APRIL 11, 2023

ORDER :-

This application has been filed for transfer of two proceedings namely, an application under Section 12 of the Protection of Women from Domestic Violence Act (P.W.D.V.A. No.6 of 2021) and an application filed under Section 125 of the Code of Criminal Procedure (C.M.A. No.359 of 2020) from the Court of Kopargaon to the Court at Sangamner, Dist.Ahmednagar.

2. The applicant herein is husband of the respondent. According to the applicant, the respondent – wife resides at Nashik. Their son is taking education at Nashik. Only with a view to harass the applicant, the proceedings have been initiated at the Court of Kopargaon.

3. It appears that the father of the respondent – wife has his place of residence at Kopargaon. The respondent – wife would also stay at Kopargaon. Needless to mention, convenience of the wife is to be considered. If really the respondent – wife is staying at Nashik, it would necessarily be inconvenient for her to attend both the proceedings at Kopargaon. She would have readily agreed for transfer of these proceedings either to the Court at Sangamner or at Nashik. The same is not the case.

4. The applicant appeared in person. With a view to ensure convenience of the applicant who resides at Nashik and has to come to Kopargaon to attend the proceedings, it can be directed that all the proceedings initiated by the respondent – wife against him, to be brought to one and the same Court. The applicant informs that the respondent – wife has filed F.I.R. for offence punishable under Section 498-A of Indian Penal Code and related offence. He also informs that the respondent – wife has initiated proceedings for restitution of conjugal rights. The same is pending before the Court of Civil Judge, Senior Division, Kopargaon.

5. Considering the facts and circumstances of the case, present application is disposed of in terms of the following order:-

ORDER

(i) Both the proceedings namely, P.W.D.V.A. No.6 of 2021 and C.M.A. No.359 of 2020 (application under Section 125 of Cr.P.C.) are transferred to the Court of Civil Judge, Senior Division, Kopargaon, which is seized of Hindu Marriage Petition No.59 of 2021, filed by the respondent – wife.

(ii) The Court of Civil Judge, Senior Division, Kopargaon, shall ensure that all the proceedings between the parties to this application, are kept on one and the same day.

(iii) Since the proceedings are of civil in nature, the Court concerned shall be liberal in granting the applicant exemption from appearing in person, provided his Advocate would assist the Court in deciding the interim application, if any, and taking all the three proceedings to their logical conclusion.

(iv) Needless to mention, whenever required, the Court concerned would enforce the applicant's presence before it.

(v) In case charge sheet is filed against the applicant for the offence under Section 498-A of Indian Penal Code and related

offences, the said case shall also be tried by learned Civil Judge, Senior Division, Kopargaon, which is competent to decide the criminal case in view of it being a Civil Court – cum – the Court of Addl. Chief Judicial Magistrate.

[R.G. AVACHAT, J.]

KBP