

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.208 OF 2022

Swapnil Virendra Bobade
and another

.....Applicants

Versus

Anamika Swapnil Bobade
and another

.... Respondents

Mr. Chetan Damre, Advocate i/b. Nikhil M. Pujari, for the
Applicants.

Mr. Shivaprasad Shetty, Advocate a/w. Vijay Hinge, for the
Respondent No.1.

Mr. Arfan Sait, APP for the Respondent No.2-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 04th AUGUST, 2023

P.C. :

1. This Application is filed for transferring the proceedings filed by the Respondent No.1 under the Protection of Women from Domestic Violence Act, 2005 vide Misc. Application No.49/2020 pending before the Judicial Magistrate, First Class, Court No.3, Khamgaon, District-Buldhana to Judicial Magistrate First Class, Nashik. The Applicants have also prayed that Misc. Criminal Application

No.500/2020 preferred under Section 125 of the Code of Criminal Procedure be also transferred to the Court at Nashik.

2. Heard Mr. Chetan Damre, learned counsel for the Applicants, Mr. Shivaprasad Shetty, learned counsel for the Respondent No.1 and Mr. Arfan Sait, learned APP for the Respondent No.2-State.

3. For transferring the case from Khamgaon to Nashik following submissions are made by learned counsel for the Applicants :

- i. The Respondent No.1 is facing another proceedings under the Protection of Women from Domestic Violence Act preferred by the Applicant No.2 herself before the Court of Judicial Magistrate, First Class, Nashik vide Criminal Misc. Application No.351/2021. Therefore, she in any case has to attend the case at Nashik. In these circumstances, it would not be onerous to pursue her case in the Court of Nashik.

- ii. The next submission was that the Applicant No.2 is about 60 years of age and it is inconvenient for her to travel to Khamgaon.
- iii. His another submission is that the Applicant No.1 is gainfully employed in Nashik and, therefore, he cannot frequently go to Khamgaon Court to give instructions to his Advocate and to attend the Court proceedings.

4. Learned counsel for the Respondent No.1 opposed these submissions. He made the following submissions :

- i. He submitted that the proceedings filed by the Applicant No.2 is a counter-blast to the proceedings preferred by the Respondent No.1. The Respondent No.1 had filed the proceedings in the year 2020 and the Applicant No.2 has filed her proceedings in the year 2021 which is subsequent to the proceedings preferred by the Respondent No.1.
- ii. He further submitted that the Respondent No.1 is not

insisting on presence of the Applicant No.2 on every date at Khamgaon. He further submitted that the Applicant No.1 will only have to come for cross-examination and it will not cause any prejudice or inconvenience to the Applicant No.1. He submitted that no grounds for transfer are made out.

5. I have considered these submissions. The Respondent No.1 has preferred an application under the D.V. Act before the J.M.F.C. at Khamgaon. There are allegations of domestic violence. As per the said Act, the Magistrate at Khamgaon has jurisdiction to conduct those proceedings. The Applicant No.2 has preferred her own proceedings against the Respondent No.1 subsequently. Therefore, there is substance in the submission of the learned counsel for the Respondent No.1 that the said proceedings are filed by the Applicant No.2 subsequently as a counter-blast to the proceedings filed by the Respondent No.1.

6. As submitted by learned counsel for the Respondent No.1, both the Applicants need not travel to

Khamgaon on every date. In fact, the Respondent No.1 is not even insisting on the presence of the Applicant No.2 at Khamgaon.

7. The convenience of the aggrieved person needs to be taken into consideration. The Respondent No.1 is residing at Khamgaon. Therefore, it is more convenient for her to continue the proceedings at Khamgaon.

8. Considering all these submissions and reasons, I do not see any reason to transfer the proceedings pending before the Judicial Magistrate, First Class, Court Room No.3 at Khamgaon to the Judicial Magistrate, First Class at Nashik. Consequently, the Application is dismissed.

(SARANG V. KOTWAL, J.)

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by
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PRAKASHRAO
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