

Ghuge

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

CRIMINAL APPLICATION NO.406 OF 2022

Dhanshree Devendra Thakur ... Applicant
V/s.
Devendra Parshuram Thakur and Ors ... Respondents

**WITH
INTERIM APPLICATION NO.3473 OF 2022
IN
CRIMINAL APPLICATION NO.406 OF 2022**

Dhanshree Devendra Thakur ... Applicant
V/s.
Devendra Parshuram Thakur and Ors ... Respondent

Mr. Indrajeet R. Kulkarni for the applicant.

Mr. Rajendra Sorankar for respondent No.1 to 5 and 7.

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

CORAM : AMIT BORKAR, J.

DATED : MARCH 30, 2023

P.C.:

1. The petitioner is seeking the transfer of proceedings filed under the Protection of Women from Domestic Violence Act, 2005, from the Court of Judicial Magistrate First Class, CBD Belapur, to the Court at Thane.

2. The reason for filing a transfer application is that the advocate appearing for the respondent/husband is the President of the Bar Association. Because of his influence, neither any maintenance is paid in the Domestic Violence proceeding nor any

action initiated against the respondent for non-payment of maintenance. Therefore, it is alleged that the Court was inclined to dismiss the Domestic Violence Proceeding filed by the applicant. It is also alleged that the record and proceedings of proceeding under Section 498-A of the Indian Penal Code, 1860, was not sent to the Sessions Judge and, therefore, it is most likely that the applicant will not get justice from the Trial Court because of influence of opponent's advocate.

3. A perusal of averments in paragraph 12 indicates that unfounded allegations have been made against the Judicial Officer. The inference drawn from the allegations is that the Judicial Officer is working under the influence of the President of the Bar. It creates aspiration in the character of the Judicial Officer. It is important to note that a transfer application alleging against a judicial officer is a serious matter and should not be made frivolously or to delay the trial or obtain a more favourable forum. Making such baseless allegations against the Judicial Officer cannot be countenanced. Such unfounded allegations create an atmosphere of fear in the mind of the Judicial Officer and may result in passing judicial orders favourable to the complainant.

4. A Judicial Officer has to act with the belief that he is not guided by any other factor than the merits of the matter so that a free and fair decision according to law is arrived at. Nowadays, Judicial Officers, particularly those handling Family Court matters, have a heavy burden of the responsibility to discharge their judicial functions. The acrimony between the husband and wife often leads to dissatisfaction of one of the parties to the trial, which results in

the filing of such an application. If such allegations are entertained as a foundation to transfer a case, it may lead to a bad precedent. Unscrupulous litigants would indulge in making unfounded allegations against the Judicial Officer.

5. No material produced on record to show that the Judicial Officer is working under the influence of the advocate for the opponent. Therefore, making such unfounded allegations amounts to interference in the administration of justice. The applicant's apprehension expressed in the present matter cannot be accepted without cogent material supporting such an allegation. Considering the overall facts and circumstances of the case, the applicant has failed to make out a case for transfer.

6. The Criminal Application, therefore, stands dismissed. No costs.

7. In view of the dismissal of the Criminal Application, Interim Application does not survive and stands disposed of accordingly.

8. At this stage, the learned advocate for the applicant prayed for the continuation of ad-interim relief. However, since the applicant has made unfounded allegations against the Judicial Officer, such a litigant does not deserve such relief from this Court. Therefore, the request for an extension of ad-interim relief is rejected.

(AMIT BORKAR, J.)