

GRM

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

CRIMINAL APPLICATION NO. 300 OF 2022

Binoy Gopalan Vaikkattile & Anr. ... Applicants

V/s.

Veena Binoy Vaikkattile & Anr. ... Respondents

Ms. Tejashree Jogdand a/w Swaraj R. Somvanshi, Adv. for the Applicants.

Ms. Anamika Malhotra, APP for the State/Respondent.

Mr. Omprakash Pandey a/w Suchita Pandey, Pramila Prajapati i/b Pandey & Co., Adv. for Respondent No. 1.

CORAM : R. G. AVACHAT, J.

DATED : FEBRUARY 2, 2023

P.C. :

This is an application for transfer of domestic violence case, C.C. No. 6600261/DV/2019, pending before 66th Metropolitan Magistrate Court, Andheri, Mumbai to the Court of Judicial Magistrate at Pimpri, Pune.

2. Heard.

3. Applicant no. 1 is the husband of respondent no. 1. Applicant no. 2 is her (respondent no. 1's) mother-in-law. The applicants claim to have been residing in Pune. It is also there case that the respondent-wife is serving with M/s. Forbes Marshall Private Limited Company, Pune. Only with a view to harass the applicants herein, the domestic violence proceedings have been initiated in the Court at Mumbai. According to the applicants, the respondent-wife has infact been staying in Pune itself. Learned

Advocate for the applicants therefore urged for grant of the application.

4. Considered the submissions advanced.

5. The respondent-wife was present before the Court. She submitted to have been residing in Mumbai. In the caption of domestic violence proceedings, she has given her residential address as “Room No. 3, A. P. D’Souza Chawl, Opp. Oberoi Estate, B. Chandivali, Sakinaka, Andheri (E), Mumbai-400 072”.

6. Learned Advocate for the applicants would submit that during enquiry, it is noticed that on the residential address given by respondent-wife, someone else was residing.

7. For better appreciation Section 27 of the Protection of Women from Domestic Violence Act, 2005 (for short “**PWDVA**”) is reproduced hereinbelow, which reads thus,

“The Court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which -

(a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or

(b)

(c)

shall be the competent Court to grant a protection order and other orders under this Act and to try offences under this Act.”

8. Without going into merits of the matter, since the respondent-wife was personally present before this Court and

made a statement to have been residing in Mumbai, this Court is not inclined to allow the present application.

9. The applicants would however be at liberty not to appear in person in a domestic violence proceedings, since proceedings under Section 12 of PWDVA are civil in nature. The applicants can very well appear through their advocate and co-operate with the Trial Court to take the proceedings to its logical conclusion. The Trial Court shall not insist for their presence, except whenever it is required for progress of the matter.

10. In view of the same, the application stands disposed of.

(R. G. AVACHAT, J.)