

AGK

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

CRIMINAL APPLICATION NO.302 OF 2022

Himanshu Sudhanshu Pisorkar

... Applicant

V/s.

Pranjal Himanshu Pisorkar & Anr.

... Respondents

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Mr. Pravin Palhade for the applicant.

Ms. Babita Pandey for respondent no.1.

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

CORAM : AMIT BORKAR, J.

DATED : MARCH 15, 2023

P.C.:

1. The application is by husband for transfer of DV Application No.32 of 2022 pending before the Judicial Magistrate First Class, Nashik Road to be transferred to the Family Court, Nashik to be decided along with Petition No.PE-50 of 2022.

2. On 25th October 2020, marriage between the applicant and respondent no.1 took place. Due to matrimonial differences, parties started residing separately. On 2nd March 2022, respondent no.1 initiated proceedings under the provisions of the Protection of Women from Domestic Violence Act, 2005 bearing PWDV No.32 of 2022. On 3rd March 2022, respondent no.1 filed application for maintenance under section 125 of the Criminal Procedure Code, 1973 before Family Court, Nashik bearing Petition No.PE-50 of

2022.

3. The husband has filed this application seeking transfer of proceedings under DV Act to the Family Court, mainly on the ground that there is possibility of conflicting findings. He invited my attention to the order of this Court in Miscellaneous Civil Application No.64 of 2019 wherein this Court transferred similar matters under the provisions of the DV Act to the Family Court.

4. The apprehension expressed by the learned advocate for the respondent that the statutory right to file appeal is taken away once the proceedings are transferred to the Family Court. The said issue is no longer *res integra* in view of the judgment of this Court in Miscellaneous Civil Application No.498 of 2022 (**Jay Suryakant Kakade v. Anunaya Jay Kakade**) decided on 2nd February 2023.

5. In view of aforesaid judgment, the applicant has made out a case for transfer of proceedings.

6. The criminal application is, therefore, allowed in terms of prayer clause (b).

7. It is made clear that the proceedings under DV Act shall be transferred only after the interim application for maintenance filed by the wife is decided by the learned Magistrate.

(AMIT BORKAR, J.)