

GRM

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

CRIMINAL APPLICATION NO. 464 OF 2022

Pratibha Prashant Dhole ... Applicant

V/s.

Prashant Hanumant Dhole & Anr. ... Respondents

Ms. Sarita M. Yadav, Adv. for the Applicant.

Mr. Arfan Sait, APP for the State/Respondent.

Mr. Robin Thomas, (A.O.R.) Adv. for Respondent no. 2.

CORAM : R. G. AVACHAT, J.

DATED : FEBRUARY 2, 2023

P.C. :

Heard.

2. In the present application, the applicant-wife has sought for transfer of criminal proceeding bearing C.C. No. 426/2019 pending before learned Chief Judicial Magistrate Court at Satara, from the said Court to the Court of Judicial Magistrate First Class at Parnel. The said case was instituted at the instance of respondent-husband.

3. Learned Advocate for respondent-husband has strong reservation to allow this application. He narrated all the facts and relied on certain documents to suggest that at what extent the applicant-wife can go.

a. Learned Advocate would further submit that the false medical papers were relied on. The main grievance of respondent-husband is that the applicant-wife had filed a petition for

restitution of conjugal rights in the Court at Satara.

4. Admittedly the applicant-wife has filed the proceeding under Domestic Violence Act, 2005 (for short “**DV Act**”) at Mumbai (Andheri). It is the case of respondent-husband that in a proceeding for restitution of conjugal rights, the applicant-wife had produced before the Court some other person, presenting him to be her husband and got the said matter settled. After having realized this fraud, the respondent-husband filed a criminal case against her. It is in the Court at Satara, which has jurisdiction to entertain the same. The applicant-wife has committed perjury as well.

5. If all these facts are true, there are no words to condemn the applicant-wife, however, as of now if the presumption of innocence is in her favour.

6. The respondent-husband is in police service. Both the applicant-wife and respondent-husband are staying at Panvel, separately in the same building. All other proceedings between them are subjudice in Courts at Mumbai.

7. Considering the gender of applicant, this Court is inclined to allow the application. The application is, therefore, allowed in terms of prayer clause (a). Transferee Court shall decide the case at the earliest.

(R. G. AVACHAT, J.)