



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT NAGPUR, NAGPUR.

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CRIMINAL APPLICATION (APPLN) NO. 46/2023

1) Dipak Balaram Yepure and others ..Applicant/s

versus

1) Mrs.Neeta w/o Dipak Yepure and others ..Respondent/s

.....
Mr. A.D. Tote, Advocate for the applicants
.....

CORAM: ANIL L. PANSARE, J.

DATED : 5th September, 2023.

PC:

Heard Mr. A.D. Tote, the learned counsel for the applicants,
at length.

2. The non-applicant no.1-wife has filed a proceeding under Section 125 of the Code of Criminal Procedure, 1973 in the Court of learned Judicial Magistrate, First Class, Nandurbar vide Criminal Misc. Application No.22/2022. The non-applicant no.1 in addition to the aforesaid proceeding, has filed an application under the provisions of Protection of Women from Domestic Violence Act, 2005 in the Court of learned Magistrate, Nandurbar being Cri. Misc. Application No.24/22. The applicants herein have been made non-applicants in proceedings under the Act of 2005.

3. The applicants, by way of present Application u/s 407 of the Code, are seeking to transfer the above-referred two cases from Nandurbar to Pusad, on the ground that the applicant no.1 has filed a HMP No.215/2021, u/s 13(1)(ia) of the Hindu Marriage Act, at Pusad. The learned counsel for the applicants submits that the proceeding under

Hindu Marriage Act have been filed on 17.11.2021. The respondent no.1-wife, who is the applicant in the proceedings filed at Nandurbar, had appeared at Pusad. He further submits that the proceedings under the HMP having been filed first in time, the subsequent proceeding filed by the wife should be transferred to Pusad. He then submits that the applicants are apprehending threats at the hands of the respondent no.1-wife. He submits that the applicant no.1 was kidnapped on 12th November 2021 when he had been to drop his wife to her parental house. He submits that an attempt was made to kill him. He somehow managed to run away. This matter was reported to the Superintendent of Police, Nandurbar. He submits that no cognizance whatsoever has been taken by the Police at Nandurbar. However, this action of police has not been challenged. He further relied upon the instances that occurred prior to lodging the petition under the Hindu Marriage Act, to support his contention that the applicants have apprehension at the hands of the respondent no.1-wife.

4. I do not find any substance in the submissions made by the applicants, inasmuch as except for bare statement of apprehension, there is no cogent material available to ascertain the truthfulness in the allegations.

5. The learned counsel for the applicants lastly submits that the distance between Umarkhed and Nandurbar is about 628 kms. If the distance is the criteria, the applicants are putting forth the case of inconvenience which, in my opinion, is equally applicable to non-applicant-wife.

6. As regards appearance, I do not find any reason as to why the applicant should not appear through the Advocate. There is nothing to show that the applicants have sought exemption from the Court at Nandurbar and was not granted. There are remedies available which the applicants may avail as regards exemption from personal appearance before the Court at Nandurbar.

7. I do not find any substance in the Application. The same is rejected.

[ANIL L. PANSARE, J.]

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